



# ANNUAL REPORT

## 2019





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## Welcome from the Chair

In everything the Commission does, we work towards making New Zealanders better off. This year we have continued our work to regulate markets where competition is limited, to assist consumers and businesses to understand their rights and obligations under competition, fair trading and consumer credit laws, and to take enforcement action to hold to account those who do not comply with the laws that we enforce. A few months into my term as Chair of the Commission, I am pleased to present our annual report for 2018/2019 which describes our work in these areas this year.

### Improving the wellbeing of New Zealanders

We focus our resources on the areas that we think can have the biggest impact on everyday New Zealanders, and particularly those consumers most significantly impacted by conduct which breaches the laws that we enforce.

We continue to develop strategies for our work programme that are sufficiently flexible to allow us to respond to changes in our operating environment while at the same time providing a clear focus for our work and decision-making. In 2018/2019 we again published our priorities for the year. Our work during the year demonstrated a commitment to those areas of focus and a number of the resulting outputs are described in this annual report.

### Our work and its impact

In our consumer credit work, we continued to prioritise cases involving responsible lending, unreasonable fees and high cost online lending. We concluded a number of Credit Contracts and Consumer Finance Act investigations and achieved outcomes which resulted in the return of significant amounts of money to borrowers.

We commenced High Court proceedings under the Fair Trading Act, seeking our first declaration that standard form consumer contract terms are unfair and we took enforcement action in a range of cases involving motor vehicle sales. We brought a case relating to online ticket resale and progressed other investigations into issues arising in online commerce.

As part of our work promoting competitive markets, we cleared 11 mergers and concluded investigations into four non-notified mergers. Separately, we also established our market studies team and initiated our first study on the retail fuel market.

Our regulation teams have been focused on delivering three core regulatory projects that affect all New Zealanders. This includes two draft decisions on the price-quality paths that will apply to Transpower and 17 local lines companies for their next five-year regulatory period, as well as the development of the new regulatory regime for fibre telecommunications networks.

Our advocacy efforts across the organisation continue to expand and we are strongly focused upon ensuring that consumers and businesses are aware of their rights and obligations and can act upon those as confident market participants.

## Competition Matters 2019

In July 2019 we held our fourth biennial Competition Matters conference, hosting it for the first time in Auckland.

During the detailed two-day programme, speakers from New Zealand and around the world discussed a wide range of regulation, competition and consumer related topics, providing a platform to discuss important current issues like evolving markets, digital platforms and data, and what they mean for competition, regulation and consumers in a New Zealand context. It was a pleasure for the Commission to share this forum for discussion with stakeholders and with those we work with day to day.

It was encouraging to see an increase in attendance at the conference compared with 2017. We also live streamed all sessions for staff to access in real time, with videos made available as an ongoing internal resource.

## Our changing context

Almost every piece of legislation that we enforce is either currently being amended or has had changes proposed to it. This year we continued to contribute to policy development to help ensure that the laws that we enforce are workable and effective. This included work relating to fair trading and consumer credit laws, as well as section 36 of the Commerce Act. We have also participated in processes relating to laws that we do not enforce, but which touch upon the work that we do such as the Building System Legislative Reform Programme.

The past year's work has also been completed in a context of change for the Commission as an organisation. I took over the role of Chair of the Commission in June 2019 after Dr Mark Berry's ten-year tenure. During Dr Berry's time our organisation achieved a reputation for achieving quality outcomes that directly affected New Zealanders, including a number of decisions that withstood robust scrutiny by the courts. Highlights include setting input methodologies and implementing the associated regulatory regime in earlier years and overseeing a number of challenging mergers involving evolving markets in recent years. Dr Berry's measured approach to regulation is widely valued. We farewelled Dr Berry at events in Auckland and Wellington which recognised his very significant contribution to the work of the Commission. I wish him all the very best on his return to legal practice at the bar and I am looking forward to continuing the Commission's important work with our team of committed and able staff.



**Anna Rawlings**  
Chair



# Welcome from the Chief Executive

Kia ora tātou

It is our vision that all New Zealanders are better off. Our two core objectives are that markets work well, and that consumers and businesses are confident market participants.

## Fit for the future

As part of the changing legislative landscape mentioned by our Chair, we are changing too. We have now grown as an organisation and with further legislative amendments creating new functions, powers and duties, we may experience further growth.

These changes bring with them challenges as well as opportunities that we are working hard to harness. We are focused on being fit for the future and well positioned to deliver on our vision and objectives, in order to meet future challenges.

## Better connection

As we continue to explore new ways of engaging with businesses and consumers, our new, upgraded website is helping to make it easier to access information.

With a more user-centric layout and content, the new website is being accessed by more New Zealanders in a variety of ways. We now have more than a third of users accessing the site using a mobile device (such as a phone or tablet).

Over the past year we have seen usage numbers increase, with more than 230,000 unique users, and more than 1.1 million page views. Over 80% of those visiting were new to the site, meaning they had not previously visited it in the last two years. This is encouraging to see and demonstrates how significant the website is as a way to communicate.

## Diversity and Inclusion

Within the Commission we recognise that having a focus on inclusion and diversity in the workplace creates the conditions for a range of perspectives to influence and inform the work that we do. This improves our ability to see and connect with the world around us and also helps us to value, understand and reflect those we work for and with. We are focused on continuing to build and maintain an inclusive, diverse and healthy environment where our people can flourish and maximise their contribution to the work that we do.

It is also important to have a pipeline of future thinkers who see the Commission as a possible career option. Over the summer we hosted seven interns across the organisation. This included participating for the first time in the Tupu Tai Pasifika Public Sector Internship programme, an interagency government initiative supporting Pacific students to explore policy career pathways within the public sector.

## Our role in a broader system

While the Commission is an independent Crown entity with a statutory decision-making role, we do not operate in isolation in the broader system. Our active involvement in policy review and legislative reform illustrates the importance we place upon our participation in a broader regulatory landscape. We have been committed this year to developing and maintaining sound working relationships with other agencies undertaking work that intersects with ours. We also continue to maintain close ties with our international counterparts.

## Connecting with all New Zealanders

Improving our connection with businesses and consumers across all New Zealand is a focus for us.

As part of this work we translated 24 of our fact sheets into Samoan, Tongan, te reo Māori, Korean and Chinese, as well as key pages of our website, and also launched new language options through our 0800 complaints number. A number of advocacy projects have had particular regard to the specific needs of our diverse target audience.

Continually improving our engagement and connection with every New Zealander will continue to be a focus for us in the coming year, as we work towards our vision of ensuring all New Zealanders are better off.

Ngā mihi



**Adrienne Meikle**  
Chief Executive



## 2019 priorities highlights

Our enduring priorities include merger assessments, investigations into anti-competitive conduct such as cartels, tackling illegal credit lending and product safety issues, and much of our regulated markets work.

For the 2018/19 year, we identified priorities in some specific areas we wanted to address consumer harm. These include online retail, motor vehicle sales, responsible lending and retail telecommunications.

Additionally, we wanted to improve our understanding of emerging and current issues affecting markets and consumers, particularly digital technologies, and contribute to a large legislative agenda that has seen amendments made to, or proposed for, all of the Acts we enforce.



### Achievement against: **Enduring priorities**



Completed a range of work to increase compliance by traders supplying toys to children under three, including site visits, guidance, educational videos and enforcement action.

First case seeking a declaration that contract terms are unfair against mobile trader Home Direct Limited.

\$1.6 million returned to customers in credit related settlements and litigations.

Cleared 11 mergers and concluded investigations into four non-notified mergers.

Continued litigation in a number of cases affecting supply of steel mesh in the building industry.

Consumers benefit from Auckland airport reducing charges to airlines by \$33 million following our analysis of airport profitability.

### Achievement against: **Improving our understanding**



Hosted *Competition Matters 2019* conference with a focus on digital issues.

Released an improved data tool to monitor lines companies performance.

Hosted online retail forum on the trends, challenges and opportunities presented by online retail.

Launched a survey on consumer likes and dislikes about their phone and broadband experiences.

Participated in an international interagency initiative increasing our understanding of websites using pressure selling tactics.



## Achievement against: **Legislative change**

Continued to implement changes arising from the amended Telecommunications Act.

Began the process of setting the rules and processes for regulating fibre networks.

Continued to prepare for the introduction of Cartel Criminalisation in 2021.



Introduction into Commerce Act of market studies powers and initiation of first study in retail fuel sector.

Contributed to the Credit Contracts and Consumer Finance Act Review, and initiated work to prepare for reform.

## Achievement against: **Addressing consumer harm**

Three retail telecommunications providers charged for billing customers beyond the termination of their contracts.

Undertook a study into the mobile telecommunications market.

Civil proceedings commenced in High Court against Switzerland based ticket resale website Viagogo.

Reached almost 700,000 people with a series of videos to help New Zealanders navigate telco options.

Online holiday rental booking platform charged with misleading consumers and guidance published for businesses who collect and publish online reviews.

Credit cases filed seeking precedent setting declarations of breach of responsible lending obligations.

Retailer Noel Leeming fined for misleading consumers about their rights under the Consumer Guarantees Act.



Consulted on the quality standards that electricity networks must meet for the next five years.

“Tell it like it is” advertising campaign launched encouraging motor vehicle dealers to accurately represent the vehicles they sell to consumers.

Increased enforcement of the existing quality standard for electricity networks, including \$3.5 million penalty for network outages in Auckland.

Released open letter about our proposed programme of work in reviewing the asset management practices of electricity distributors.

First Gas fined \$3.4 million for a non-notified merger following Commission action.

Three car dealers fined a total of \$525,000 following Commission action.

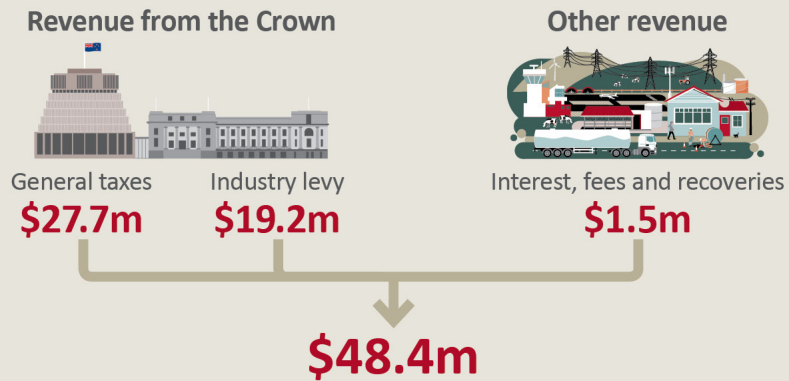
Finance company Budget Loans fined for conduct including misrepresenting its right to repossess goods and recover interest and costs from borrowers.

## 2019 financial story

The Commission's recorded funding in 2018/19 was a total of \$48.4m. The largest contribution to our revenue is from the Crown, through a combination of general taxes and industry levies. Our total expenditure was \$47.9m.

More details of our financial performance are provided in the 'Our finances' section of the report.

### Our funding

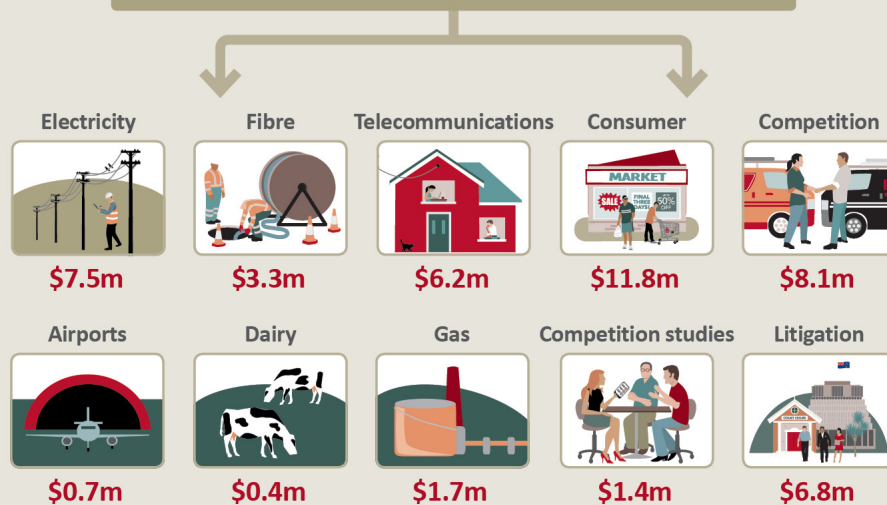


### What we do for New Zealanders



### Our expenditure

#### Regulating services and protecting New Zealanders



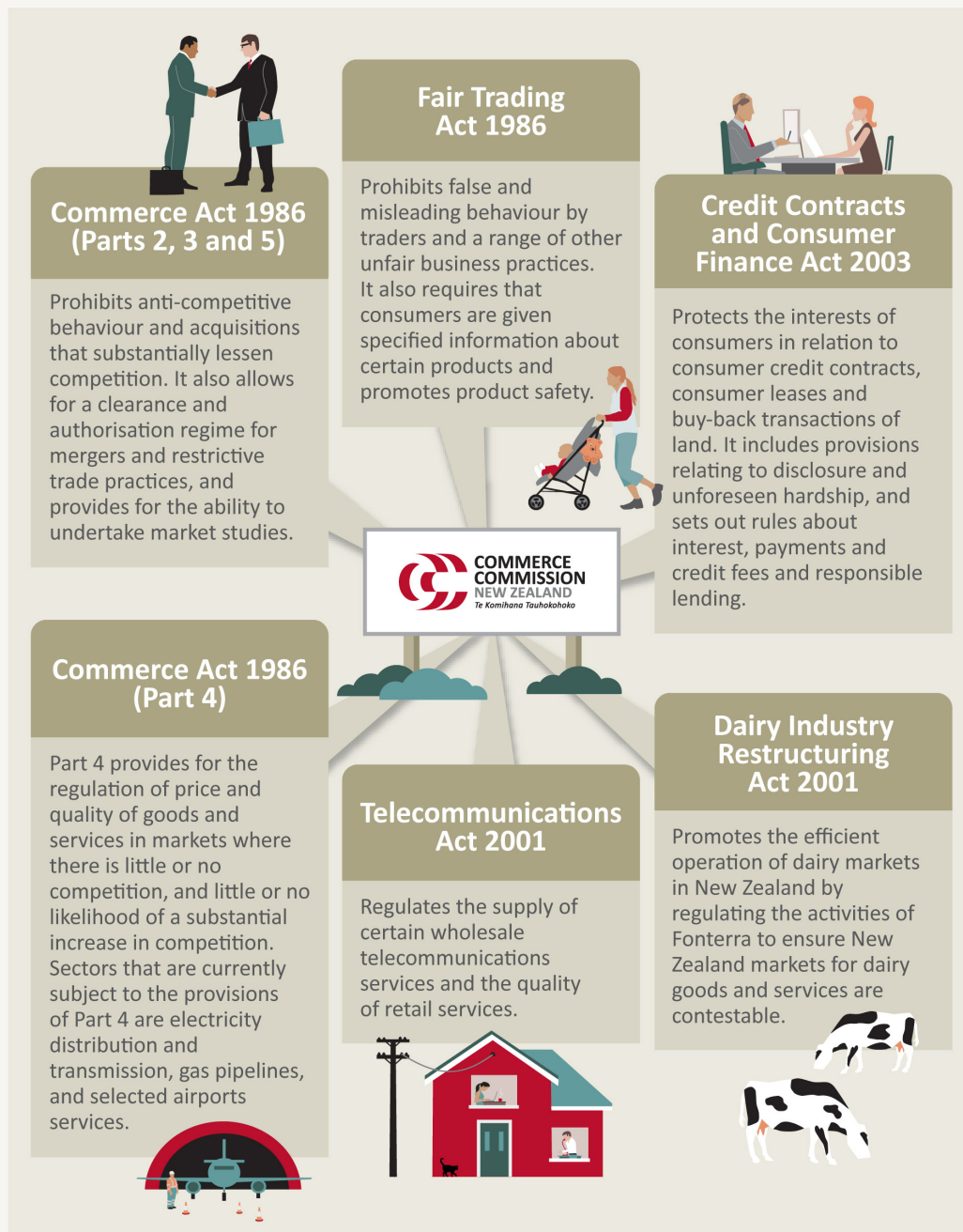
# Who we are

## Our role

The Commission is an independent Crown entity. We are primarily accountable to the Minister of Commerce and Consumer Affairs and the Minister of Broadcasting, Communications and Digital Media for our performance. We are not subject to direction from the Government in carrying out our enforcement and regulatory activities. This independence requires us to be an impartial promoter and enforcer of the law. Where relevant, we use our experience to provide advice on policy development and legislative reviews.

## Legislated responsibilities

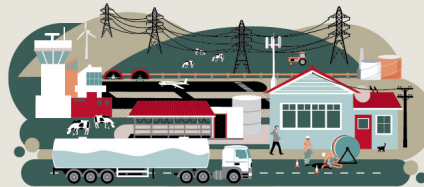
We are responsible for enforcing laws relating to competition, fair trading, and consumer credit contracts. We also have regulatory responsibilities in the electricity lines, gas pipelines, telecommunications, dairy, and airport sectors.



## Who we work with

There are many other organisations that also contribute to well-functioning markets and confident market participants. The Commission works with consumers, businesses and other New Zealand and overseas agencies to help achieve our strategic objectives and make New Zealanders better off.

Businesses, including regulated industries and representative organisations



Central government and other regulator and enforcement agencies



Consumers, community agencies and industry



International agencies and networks



# Making New Zealanders better off

All our work contributes to delivering on our vision that New Zealanders are better off because markets work well, and consumers and businesses are confident market participants. Our strategic framework brings together our vision, strategic objectives, strategies, and values. These make up our vision and strategy for 2017-2022.



Full details of our strategic framework can be found in our *Vision and Strategy 2017–2022* at [www.comcom.govt.nz](http://www.comcom.govt.nz).

In the following sections we will demonstrate how our core operational activities contribute to our strategic objectives and how we have assessed our impact in 2018/19.

## Delivering on our strategic objectives

Our two strategic objectives are that markets work well, and consumers and businesses are confident market participants. These guide our core operational activities, which are:

- regulating infrastructure providers in the supply of essential services
- promoting competitive markets to improve everyday life and the economy
- tackling consumer harm for the benefit of all New Zealanders.

In this chapter we provide a narrative and illustrative examples explaining what work we have done in relation to these three operational activities.

### Regulating infrastructure providers in the supply of essential services

A large part of our role lies in providing oversight of the monopoly component of infrastructure industries like electricity lines, gas pipelines, airports and telecommunications networks. Our work ensures that consumers are not disadvantaged by the lack of competition.

In the past year our regulation teams have been focused on delivering three core regulatory projects that affect all New Zealanders. First, two draft decisions have been published on the price-quality paths that will apply to Transpower and 17 local lines companies for their next five-year regulatory period, starting on 1 April 2020.

Through these price-quality paths we set the maximum revenue regulated lines companies can collect and set the minimum quality standards (for local lines companies, currently measured in terms of the duration and frequency of outages) they must meet.

We expect our final decisions will confirm that the transmission and distribution charges that consumers pay in their electricity bills will reduce for the majority of households next year, largely due to the lower financing costs lines companies face. We are also focused on ensuring these companies are able to invest in their networks and deliver the quality of service consumers expect.

Separately, we have begun developing the new regulatory regime for fibre telecommunications networks, which stemmed from changes to the Telecommunications Act in 2018. This project will ultimately determine the maximum revenues that certain regulated suppliers can recover from providing fibre broadband, which will flow through to consumers, as well as the service quality we expect those fibre suppliers to deliver.

We have established a new team within the Regulation Branch that is responsible for this regime. Their first task has been to begin development of the input methodologies – the rules and processes – that will govern how we set price-quality paths and information disclosure requirements. Developing the new fibre regime is a long-term project and will continue to be a key focus area for the next year.



### **Understanding lines company performance trends**

Aligned with our priorities we have taken steps to improve our understanding of current and emerging issues affecting the markets we regulate. One such project was focused on collecting and publishing information on what emerging technologies lines companies are investing in. We want to understand what effect these technologies are having on the sector and how these investments are being accounted for within the existing regulatory regime, as there may be competition implications for the broader industry. Separately, over the past year we have also developed an improved data tool that is designed to provide greater access to and transparency of local lines companies' performance. The tool uses data we collect through information disclosure regulation and covers everything from financial details, such as operating expenditure and profitability, through to the condition of assets like power poles and outage levels on each network. As a result, we and the public can compare performance and better gauge potential or emerging trends across the sector.

Outside of these core projects we have continued to deliver other key work programmes, including a study into the mobile telecommunications market, and reviewing Fonterra's milk price manual and corresponding price calculations, as well as supporting the Government's Electricity Price Review. Other important initiatives have been our focus on lines companies' asset management and monitoring aspects of retail telecommunications service quality, which are detailed in our case studies.

### **Promoting competitive markets to improve everyday life and the economy**

There are many drivers that affect the level of competition in a market, including private sector activities and government policy. One of our key roles is to identify and address anti-competitive conduct that can prevent markets from functioning properly, and we assess business mergers for competitive effect. Competition is a key driver for delivering greater productivity and growth in the economy. It incentivises organisations to innovate and rewards efficiencies in businesses.

Over the past year our mergers team received 11 clearance applications, all of which were cleared to proceed, including Ingenico's acquisition of Paymark. We concluded investigations into four non-notified mergers, which are discussed further below, and concluded proceedings against First Gas following its unauthorised acquisition of GasNet's Bay of Plenty assets, with the High Court handing down a penalty of \$3.4 million. We also reviewed our mergers processes and published revised process guidelines for mergers and acquisitions.

Separately, our trade practices team analysed a range of anti-competitive conduct, such as price fixing, under Part 2 of the Commerce Act. One case resulted in penalty judgments. The High Court handed down a penalty of \$825,000 to GEA Milfos in a price-fixing case involving milk sensors and herd management services.

A major focus of this past year has been establishing our market studies team and initiating our first study on the retail fuel market. This project has been a significant undertaking, with strong public interest in the outcome given the importance of fuel to consumers and the wider economy. This is reflected in the more than 300 news stories that followed the publication of our draft report. We are due to publish our final report on the retail fuel market in December.

## International engagement

Maintaining and developing international relationships is critical for us, given the benefits to competition agencies sharing information and learning from each other, especially in a digital environment. In 2018/19 we attended conferences and workshops in Australia, the US, Mongolia, Taiwan, Japan, Israel and South America. Commissioner Jill Walker is a member of the Bureau of the Competition Committee at the Organisation for Economic Co-operation and Development (OECD). We hosted a secondee from our sister agency in Cambodia to help them understand the tools and systems we use. In May we joined 72 other competition agencies in signing up as a participant to the International Competition Network's framework for Competition Agency Procedures (CAP). Through the CAP agencies agree to a common framework for fundamental procedural fairness and natural justice when conducting competition investigations and enforcement proceedings.

In addition to our enforcement work we have been actively taking opportunities to educate businesses and government on the Commerce Act. This has included submitting articles in industry publications outlining the different forms of cartel conduct they needed to be aware of and presenting to trade associations and government sector entities. The Commerce (Criminalisation of Cartels) Amendment Act passed into law in April 2019 and we have a team preparing for the new cartel offence, including developing an educative campaign.

## Tackling consumer harm for the benefit of all New Zealanders

Tackling consumer harm is vital to ensuring New Zealanders have the confidence to participate in our economy, whether as buyers or sellers of goods and services.

When you buy goods and services in New Zealand, you are protected by consumer laws. The Commission enforces some of these laws including ones that give you rights when you borrow money or buy goods on credit. We prioritise our enforcement of the Fair Trading Act (FT Act) and Credit Contracts and Consumer Finance Act (CCCF Act) on cases that have the greatest impact for consumers and businesses.



We have concluded a number of long-running substantive CCCF Act investigations, with 13 decisions made to either settle or litigate credit-related cases. This has resulted in more than \$150,000 in court fines, and a further \$1.6 million in customer compensation (in the form of fee refunds or statutory damages).

We also took High Court proceedings seeking a declaration of unfair contract terms against Home Direct (a mobile trader), in relation to the company's voucher entitlement scheme which customers were invited to opt in to when they signed up to purchase goods. Under the voucher scheme, direct debit payments did not stop after the goods were paid off; they were converted every week into 'voucher entitlements' which could be used towards purchasing more goods from Home Direct. It is the first time we have sought such a declaration since it became unlawful to include, apply or rely on terms that have been declared by a court to be unfair.

We have taken several high-profile cases relating to credence claims, claims which are difficult for customers to verify, and will continue to tackle this conduct given the harm it is causing to consumers and legitimate businesses. Cases include Go Healthy New Zealand misrepresenting its health supplements as 'Made in NZ' and Farmland Foods giving the misleading impression its ham products were made from New Zealand-reared pork, rather than from imported pork, for which it was fined \$180,000. HRV Clean Water Limited was also fined \$440,000 after pleading guilty to making unsubstantiated claims about the benefits of its water filters and for making misleading claims about the quality of New Zealand's home water supply. In the first defended unsubstantiated representations case in New Zealand, Kiwipure was found guilty for making unsubstantiated claims about the benefits and ability of its water filters.

## PRIORITY FOCUS

### Online retail

Last year alone New Zealanders spent more than \$5 billion online, at retailers domestically and offshore. Our work on online retail over the past year has aimed to better understand the issues faced by both consumers and businesses and to educate them about their obligations and rights, including by hosting an online round table.

Our staff participated in the 2019 International Consumer Protection and Enforcement Network (ICPEN) internet sweep. As part of this work, we reviewed 73 websites and found 38 were using pressure tactics, marketing techniques which are used to encourage consumers to rush into making purchasing decisions. We will be undertaking further work in this space and reminding online retailers that all representations made as part of their sales techniques need to be able to be substantiated.

We also undertook a compliance project to raise online retailers' awareness of the Consumer Guarantees Act (CGA) and Fair Trading Act. After reviewing 174 websites, we engaged with 41 businesses to inform them of our concerns with their sites, with the intention to educate them and help them understand their legal obligations.

For the first time, we took litigation action on a matter concerning online reviews, filing charges against Bachcare Limited for allegedly misleading consumers by manipulating online reviews posted by users of its accommodation services.





Several large retailers also received significant fines in the past year following work we completed on extended warranties and consumer rights under the CGA. Noel Leeming, PB Tech and Michael Hill Jeweller were fined a total of \$446,000 for various failures to comply with the extended warranty disclosure provisions in the FT Act.

Our construction-related work has this year focused on allegations of significant misleading product representations that were drawn to our attention. Litigation outcomes include penalties of \$540,000 against Brilliance Steel and \$2.1 million against Steel & Tube in our long-running steel mesh proceedings. The Steel & Tube penalty is currently subject to appeal.

Dunedin businessman Cavan Forde was fined \$85,000 for misrepresentations he made about the brand, origin and engineering endorsements attributed to Chinese concrete panels he was supplying to New Zealand's building market.

## PRIORITY FOCUS

### Motor vehicle sales

The purchase of a motor vehicle can have a significant impact on household budgets if vehicles are misrepresented or prove to be faulty, and no redress is given.

Three car dealers were prosecuted during the year, with 2 Cheap Cars, Vehicle Logistics and 1 Dollar Reserve Cars all convicted and collectively fined \$525,000 for misleading consumers about their CGA rights.

Our advocacy initiatives included the development of a tip sheet for motor vehicle dealers, covering the advertising of vehicles for sale and relevant Consumer Guarantees Act provisions. A trader-focused marketing campaign was also developed with the tagline 'Tell it like it is', reinforcing the message of the obligations and responsibilities of traders selling motor vehicles.

As part of our compliance work to help traders comply with the law, we also visited a number of motor vehicle dealers that we identified from analysis of our complaints data and Motor Vehicles Disputes Tribunal decisions. We found that many of these dealers were unclear about their legal obligations and half of the 21 traders visited did not display Consumer Information Notices. Follow-up visits then showed us all but four of these traders were displaying CINs

A key focus of this year has been contributing to the work on the Credit Contracts and Consumer Finance Act review. We are preparing for amendments to the law to come into effect around mid-2020. The changes give us significantly more responsibility, including establishing a register of approved lenders, and we are building a new team to implement our new responsibilities.

Other laws we have worked with government on include fair trading and building reforms, various financial sector reviews, the Country of Origin of Food Consumer Information Standard, the Therapeutic Products Bill, and the review of insurance contract law.



## Measuring our impact

As well as delivering on our core activities, in this chapter we outline our performance against our strategic objectives. Drawing on a range of indicators, including case studies, this chapter illustrates and provides examples of the impact of our work contributing to well-functioning markets and confident market participants. These indicators are described in our *Statement of Performance Expectations 2018/19*.

### Markets work well

Our role is to support an environment that enables markets in New Zealand to function well. Well-functioning markets allow consumers and businesses to experience the benefits of competition. Much of the work we do that contributes to this has been outlined above.

The following case studies and indicators highlight some of the work we have done in 2018/19 to contribute to well-functioning markets.

#### CASE STUDY

##### Auckland Airport lowers prices

In 2018/19 we published our report on the pricing decisions of Auckland International Airport (AIA). AIA is subject to a light-handed form of regulation called ‘information disclosure’. This involves ‘shining a light’ on the airport’s pricing and spending decisions – its profit, investment, pricing and service levels – to improve transparency about its performance.

Our view was that AIA’s targeted return – involving an additional pre-tax return of \$53 million on the majority of its regulated services, when compared with the Commission’s benchmark weighted average cost of capital for airports – was not fully justified. In response AIA decided to reduce its charges to airlines by \$33 million over the current five-year pricing period. This was the second time that an airport reset its prices as a result of our findings, the first being Wellington International Airport in 2015. AIA’s decision to revise its pricing benefited consumers and demonstrates the way in which the current information disclosure regime can positively influence the performance and behaviour of New Zealand’s major airports.



We are also able to influence business behaviours by clearly communicating trends that we observe and taking enforcement action to encourage compliance.

## CASE STUDY

### Protecting the integrity of the merger regime

Mergers can bring many benefits to the New Zealand economy by making businesses more efficient and innovative. However, some mergers also have the potential to substantially lessen competition in the market to the detriment of consumers. The Commission administers a voluntary clearance regime for mergers and acquisitions but can also take enforcement action to prevent anti-competitive transactions from going ahead if prior clearance is not sought.

The success of New Zealand's voluntary merger regime relies on an effective merger surveillance programme and the credible threat of enforcement when businesses do not apply for clearance or authorisation. We can seek divestment orders and penalties if we consider that a non-notified merger may substantially lessen competition. After a decrease in the number of voluntary applications, we identified non-notified mergers as a priority focus area.

Between 2014 and 2017 we concluded four investigations into non-notified mergers. In the 2018/19 financial year alone we concluded seven, resulting in our filing court proceedings against First Gas and Wilson Parking and achieving divestments from Fulton Hogan and David Ferrier that enabled those acquisitions to proceed without court action. While we still have four non-notified merger investigations open, we have since seen voluntary applications increase again.

## INDICATOR

### New Zealand's competitiveness

To help assess New Zealand's competitiveness over the last 12 months, we consider New Zealand's ranking in the annual World Economic Forum's Global Competitiveness Index. The assessment is based on a range of criteria,<sup>1</sup> some of which the Commission can influence.

#### *New Zealand's ranking in the World Economic Forum's Global Competitiveness Index from 2017 to 2019*

Year	2019	2018	2017
New Zealand's progress score ranking	18th out of 140 countries	16th out of 135 countries	13th out of 138 countries

In October 2018 New Zealand's overall competitiveness score was 77.5 out of 100, with a ranking of 18th out of 140 countries.<sup>2</sup> Although this is a slight decrease in the ranking from the previous year, New Zealand's overall competitiveness is still good and comparable with other countries with similar market dynamics, such as Australia (score of 78.9).

1. The '12 pillars of competitiveness' considered are institutions, infrastructure, ICT adoption, macroeconomic stability, health, skills, product market, labour market, financial system, market size, business dynamism and innovation capability.
2. The 2018 Global Competitiveness Report introduced a new progress score ranking from 0 to 100. The score ranking was previously 0 to 7 with New Zealand scoring 5.37 in 2017/18 using the old method. This has also resulted in an updated country ranking for New Zealand from 13th out of 137 countries reported in 2017/18 Annual Report to 16th out of 135 countries.

The next indicator outlines our view on whether regulated suppliers are providing strong and sustainable infrastructure for the benefit of New Zealanders.

## INDICATOR

### Regulated suppliers provide strong and sustainable infrastructure

In 2018/19 our general view is that regulated suppliers are delivering strong and sustainable infrastructure for the benefit of New Zealanders.<sup>3</sup> However, there continues to be room for improvement in some areas and we will continue to take action as required.

Regulated Sectors	Commentary
<b>Electricity Networks</b>	<p>Overall, the underlying infrastructure for electricity networks in New Zealand is delivering a reliable service to New Zealanders.</p> <p>Reliability performance (outages) varies on an annual basis as performance is impacted by factors within and outside of a network's control, and outage lengths can increase with changes to operational practices. The reliability limits set for regulated electricity networks reflect the inherent variance in performance due to factors such as weather conditions.</p> <p>Electricity network operators are facing uncertainty as emerging technologies may bring elements of disruption into this sector. This is something we are continuing to monitor and work closely on with the Electricity Authority.</p>
<b>Gas Pipelines</b>	<p>Gas infrastructure currently provides services at a high level of reliability to New Zealanders connected to the reticulated network in the North Island. Work is needed to address a specific resilience concern on the gas transmission network in Northern Taranaki. We are working with industry participants to ensure erosion risks are appropriately managed and long-term performance of the transmission network can be maintained. The sector also faces some uncertainties because of the Government's decision to prohibit new offshore exploration permits.</p>
<b>Airports</b>	<p>We have seen substantial investment in Auckland International Airport, our most important international gateway. Wellington Airport is currently consulting on its proposed capital investment programme.</p> <p>We completed our price assessment of both Auckland and Christchurch Airports in 2018/19. Auckland adjusted its prices following concerns its target return was too high and we were broadly satisfied that Christchurch was not targeting excessive profits.</p>
<b>Telecommunications</b>	<p>Recent years have seen the development of a new high-performance fibre telecommunications network that will replace much of the copper network across New Zealand. The fibre network can be upgraded at relatively low cost to keep up with growth in data traffic. We are setting up the regulations required after 2022. In addition to the competition between retail service providers, the fibre companies are obliged to allow for competition in speed and service differentiation over their optical networks. Further competition may develop with the arrival of 5G mobile and fixed wireless broadband.</p> <p>Mobile market competition is trending in the right direction, with three established mobile network operators. Price and non-price outcomes generally compare relatively well internationally and there is an emerging wholesale market to supply mobile virtual network operators (MVNOs), who in turn can offer consumers increased choice. Consumers tell us that they find it easy to compare mobile plans and to switch providers but there appears to be a level of consumer inertia in the market. A key competition issue going forward will be spectrum allocation – this will be important for both sustaining competition between network operators and the continuing development of MVNO competition.</p>

3. This performance indicator does not apply to the dairy sector as the Commission's role under the Dairy Industry Restructuring Act 2001 is primarily limited to reviewing Fonterra's milk price manual and milk price calculation, and for the most part does not involve looking at the performance of any dairy markets as a whole. By comparison we have a more significant role to play in relation to the other regulated sectors covered by the indicator (electricity, gas, airports and telecommunications), where we set the underlying rules, monitor performance and take enforcement action in regulated markets.

### **Stakeholder views on our regulatory processes**

We also help markets work well by ensuring that our regulatory processes are efficient and effective.

To achieve this, we regularly seek feedback on our processes from stakeholders. This improves confidence in our processes and the underlying regulatory regimes involved and ensure that they promote the long-term interests of consumers.

#### ***Customised price-quality path process***

In July 2018 we obtained stakeholder feedback on the process we used to set customised price-quality paths (CPP)<sup>4</sup> for Powerco and Wellington Electricity. Our objective was to build understanding and make improvements to our processes.

Aside from continuous improvement, it is important we review the CPP process as it is integral to our contribution to the electricity markets working well. Suppliers can choose to apply for a CPP and may not do so if they perceive the process to be unfair, ambiguous, or unnecessarily complex and costly.

Stakeholder feedback included general support for the verification processes, the need to balance regulatory changes against complexity and costs of the regime, and the value of early engagement and being clear about expectations.

Gaining feedback from stakeholders on the CPP process has enabled the Commission to increase the transparency of its processes and engage with stakeholders more openly. The information provided has helped us with our current work on resetting the default price-quality path for electricity distribution businesses (EDBs) and the individual price quality-path for Transpower.

#### ***Fibre input methodologies regulatory process***

In July 2019 we sent a survey to stakeholders seeking their feedback on the current process around the setting of input methodologies (IMs) for the regulatory regime applying to fibre services.<sup>5</sup>

The aim of the survey was to understand how stakeholders are finding the current process and highlight potential improvements that can be made for future regulatory processes. Respondents were satisfied with the current process and the use of workshops as a mechanism to understand Commission and stakeholder views. The feedback we received will help us better engage with our stakeholders and make the process for setting of input methodologies for fibre more transparent to those involved.

4. A CPP is a tailored form of price-quality regulation which sets price or revenue limits and minimum standards for quality of service. Electricity distribution businesses can apply for a CPP to better suit the specific needs of the regulated business and those of its consumers. CPPs are based on our analysis of information specific to the business, and require in-depth audit, verification and evaluation of the information provided by the regulated business.

5. Input methodologies for fibre are the rules, requirements and processes that we are required to develop after amendments were made to the Telecommunications Act 2001 last year.

## Consumers are confident

All New Zealanders are better off when they are confident market participants. Consumers have confidence to participate in markets when they have access to information that helps them make informed borrowing and purchasing decisions, they are able to assess whether businesses are trading fairly, and they feel the system is working to protect their interests.

The following case studies and indicators describe some of the work we have done in 2018/19 to help consumers transact with confidence. The indicators include data from a range of consumer surveys from agencies such as the Ministry of Business, Innovation and Employment (MBIE), Consumer NZ and the Electricity Authority.

### CASE STUDY

#### Continued action to improve consumer confidence in retail telecommunications

The retail telecommunications sector is a priority focus area for the Commission. Alongside our enforcement action, which resulted in charges being filed against Spark, Vodafone and Vocus this past year, we have directed resource to the re-introduction of compliance meetings with telecommunications retailers. This allowed us an opportunity to discuss complaints that might not be prioritised for investigation but could cause consumer harm, gave the companies a greater insight into the way we think and helped ensure they were more open to raising minor, easily corrected issues with us. Through our work, consumers have been refunded over \$3 million in charges directly related to conduct we have investigated.

In addition to this, we have taken steps to begin monitoring aspects of retail service quality including performance, speed and availability, customer service, billing, and installation issues, and provide information for consumers to help them with their choice of technologies and providers. We are now in the process of surveying New Zealanders to better understand what information would help them to choose services that suit their individual needs. By improving consumer understanding and working directly with telecommunications retailers we hope to see further improvements in the sector.



In 2018/19 MBIE commissioned a national survey of consumers to find out what New Zealanders know about their rights and what their experiences were of dealing with problems. The survey found that consumers were aware that laws exist in New Zealand to protect consumer rights when purchasing products and services.

The Commission uses the MBIE survey to assess consumer confidence as market participants.

### INDICATOR

	2017	2019	Trend
Consumers are confident that competition and consumer laws are being appropriately enforced	40%	30%	Desired: maintain or increase

The MBIE survey found that, in 2019, consumers have less confidence in enforcement of consumer and competition laws compared with 2017. We were disappointed with this result as our enforcement activity in 2018/19 remained high.

It is unclear what is driving this decreased confidence. In 2019/20 we will carry out further work to understand the cause of the decrease and better connect with consumers to understand their issues and improve how we target our efforts.

This is the first year that the Commission has measured consumer confidence when accessing consumer credit.

## INDICATOR

	2017	2019	Trend
Consumers are confident when accessing consumer credit	New indicator	83%	Established baseline

The MBIE 2018/19 survey found that consumers feel informed and confident when entering into credit contracts. This is a pleasing result as the Commission has prioritised responsible lending and credit sector activity during 2018/19.

## CASE STUDY

### Connecting with all New Zealanders

During the year we have continued to focus on improving our connection with communities by broadening our communication channels through our Connecting with all New Zealanders project.

One of our key priorities for connecting over the last year was helping consumers be confident market participants by making our guidance material accessible for everyone. As part of this work we translated key pages on our website, and also had 24 of our fact sheets translated into Samoan, Tongan, te reo Māori, Korean and Chinese.

In addition, we added subtitles to our video resources and launched new language options via our 0800 enquiries number, enabling consumers to complain to us in the language they feel most comfortable with.

## CASE STUDY

### Improving consumer confidence through action on responsible lending

Responsible lending has remained a key priority focus area for our credit team over the past year as we work to continue to improve consumer confidence. In 2016 we reviewed a number of High Cost Short Term Lenders, focusing on compliance with disclosure obligations and responsible lending principles imposed by the CCCF Act. From that review we selected three lenders, Ferratum, Moola and Pretty Penny, for further investigation, which has since resulted in court action against all of them.

The issues in the credit sector are widespread and by no means simple to address. We value the contribution of the consumer advisory sector who complain on behalf of their clients, alerting us to market practices that may not come to our attention otherwise. Their assistance helps us to improve the confidence of all consumers.



## INDICATOR

	Trend
Consumers are confident that regulated suppliers are providing services at an appropriate price and quality	Desired: maintain or increase

This is the first time the Commission has assessed whether consumers are confident that regulated suppliers are providing services at an appropriate price and quality.<sup>6</sup>

We use survey results from Consumer NZ's annual Telecommunications survey and the Electricity Authority's two-yearly Electricity Consumer Survey to demonstrate consumer confidence in relation to telecommunications (fixed line and mobile) and electricity lines services.

Overall satisfaction – Telecommunications	2018	2019
Telecommunications		
• Fixed line	76%	78%
• Mobile	79%	82%

Everyday New Zealanders do not access the 'regulated service' provided by telecommunications providers directly. Instead they interact with these services through retail businesses. The overall satisfaction result from the Consumer NZ telco survey is a proxy for confidence in the telecommunications sector more generally, including whether consumers are confident that services are being provided at an appropriate price and quality.

The survey results show that a majority of respondents were either very satisfied or somewhat satisfied with their ISP's or mobile provider's service. For both fixed line and mobile services, price factors, such as more competitive pricing and cheaper data, were the most common satisfaction attributes that would improve overall satisfaction for respondents. Price and quality were also important factors for consumers when switching between providers of fixed line and mobile services. In the same survey, respondents highlighted cheaper and better plans, and customer service, as the main reasons for switching providers.

6. While the target in the 2018/19 Statement of Performance Expectations is specified as 'Maintain or increase', the survey information presented should be seen as setting the baseline, given this is the first time we have reported against this performance indicator.



Overall satisfaction – Electricity	2017	2019
Electricity retailers	69%	73%

As with telecommunications services, consumers of electricity services primarily interact with retail businesses rather than directly dealing with Transpower or the 29 local electricity lines businesses across New Zealand that supply ‘regulated services’.

The Commission is responsible for setting the price and quality controls for Transpower and 17 of the lines companies. These controls involve setting the total revenue cap that lines companies can earn and establishing minimum standards of quality that lines companies must meet in supplying electricity to their consumers across their network.<sup>7</sup>

The overall satisfaction result from the Electricity Authority’s Electricity Consumer Survey 2018 is a proxy for confidence in the electricity sector more generally, including whether consumers are confident that services are being provided at an appropriate price and quality. The survey results show consumers are largely very satisfied or somewhat satisfied with their electricity retailer.

Price continues to be an important driver for consumers. In terms of the importance of switching factors, for example, for those respondents who had switched the three main factors were all price related – the estimated total electricity bill amount, the discounts offered and the price per kilowatt hour.

## CASE STUDY

### Enforcing expectations on lines company service quality

Consumers rightly have high expectations that local lines companies will provide them with a reliable supply of electricity. We share this expectation and are taking concerted action to hold lines companies accountable where we consider outage levels are excessive. This has resulted in the first court proceedings filed for quality standard breaches under the current regulatory regime, with the High Court ordering Auckland-based Vector to pay a pecuniary penalty of \$3.575 million. The Commission has also decided to issue proceedings against Dunedin-based Aurora Energy. A further six lines companies are under active investigation for breaches of quality standards.

In addition to our enforcement action, we have taken a proactive approach to talking to lines companies about our expectations for asset management and hearing from them on the particular challenges they face. Over the past two years we have undertaken site visits to 21 lines companies, giving our staff the opportunity to familiarise themselves with the companies involved and understand their operational issues.



7. The Electricity Authority regulates electricity wholesale and retail markets, and pricing methodologies for transmission and distribution.

## Businesses are confident

Businesses need to be confident that the rules are understandable and clear, and that those rules are being applied equally and impartially to their competitors. Businesses and investors also need to be confident that the regulatory regime which we are responsible for is predictable in order to continue to invest and innovate.

The following case studies and indicators describe some of the work we have done in 2018/19 to help businesses be confident market participants.

In 2018/19 the Commission conducted a business survey using Colmar Brunton to help assess how well businesses understand their responsibilities and whether they are confident that other businesses are following the rules.

### INDICATOR

	2017	2019	Trend
Businesses understand their responsibilities under competition and consumer law	63%	68%	Desired: maintain or increase
Consumer Guarantees Act	83%	86%	
Fair Trading Act	78%	81%	
Credit Contracts and Consumer Finance Act	45%	50%	
Commerce Act	44%	54%	

There was an improvement in businesses' confidence as more businesses understand their responsibilities under competition and consumer laws in 2018/19 compared with 2016/17. We will look to further enhance these results in future years by engaging with businesses more and exploring new ways of educating businesses on their obligations.

### INDICATOR

	2019	Trend
Businesses are confident other businesses are following the rules	63%	Established baseline

This is the first time the Commission has reported against the performance indicator assessing whether businesses are confident other businesses are following the rules. We have established a baseline in 2018/19 which we will look to improve through our enforcement, education and advocacy work.

## CASE STUDY

### Promoting business confidence through enforcement and education

During the year our team continued to work to improve awareness of, and compliance with, the product safety standards we enforce under the Fair Trading Act for the sale of toys for under 3-year-olds. Over the past year we carried out 113 inspections of businesses in Auckland and the Bay of Plenty, across a broad range of retailers, and also held compliance meetings with other online traders. Since 2017 we have taken 16 product safety prosecutions, with fines totalling just over \$1 million.

Our ongoing prosecutions and inspection work show that many of the non-compliant traders have little or no knowledge of their obligations under the law and have no compliance programmes in place. In November, as part of our education and advocacy work, we released a set of three toy safety videos. The aim of these videos was both to alert businesses to the potentially disastrous consequences of supplying unsafe toys and to assist them to understand and meet their legal obligations. This included 'Any doubts? Don't sell', an information video giving guidance on the mandatory product safety standards, particularly for toys for children 36 months and under, as well as a third video which demonstrates three of the tests that toys undergo to show they pass the mandatory test.

We translated the 'Any doubts? Don't sell' video into Chinese and Korean and undertook a small-scale launch of all three of the videos by targeting approximately 170 traders who had been visited by the Commission during our unannounced visits to retailers. The videos have so far been viewed up to 500 times each, which is a strong result given the small number of traders in the toy supply industry.



INDICATOR

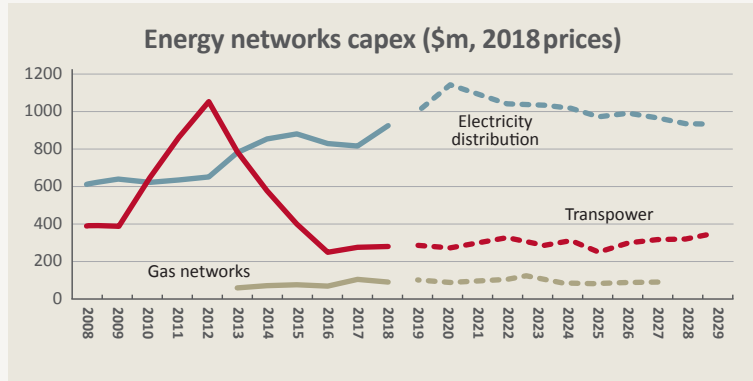
**Regulated suppliers are confident to invest in regulated assets**

Based on a high-level assessment of available evidence, our view is that regulated suppliers remain confident about investing in regulated assets.

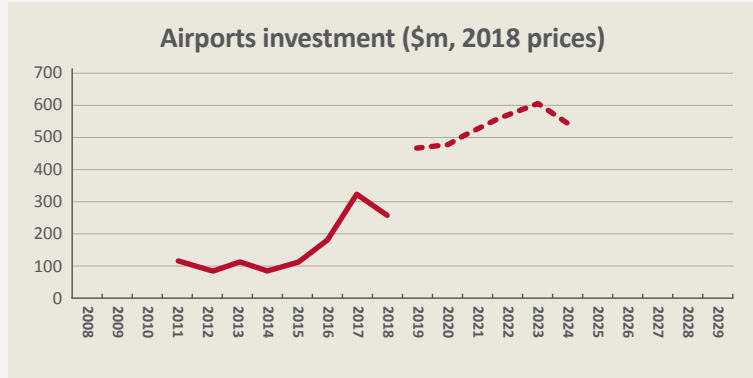
**Energy Networks and Airports**

Energy networks and airports are required to disclose information about actual and planned investment and the trends can be seen below. Between 2008 and 2024 (noting that airports forecasting only exists to 2024), actual and planned investments total around \$28 billion since the new regulatory regime was introduced under the Commerce Act. That equates to around \$1.6 billion of investment each year.

*Trends in actual and planned investment by energy networks and airports*



*Auckland, Wellington and Christchurch International Airports*



Looking at individual sectors, investment is generally being maintained around or above historical levels. Notably, Transpower made major grid upgrades shortly after the new regulatory regime was introduced, following a number of years of deferral. The future investment profile is predominately renewal expenditure, which is designed to maintain the reliability of supply provided by existing assets.

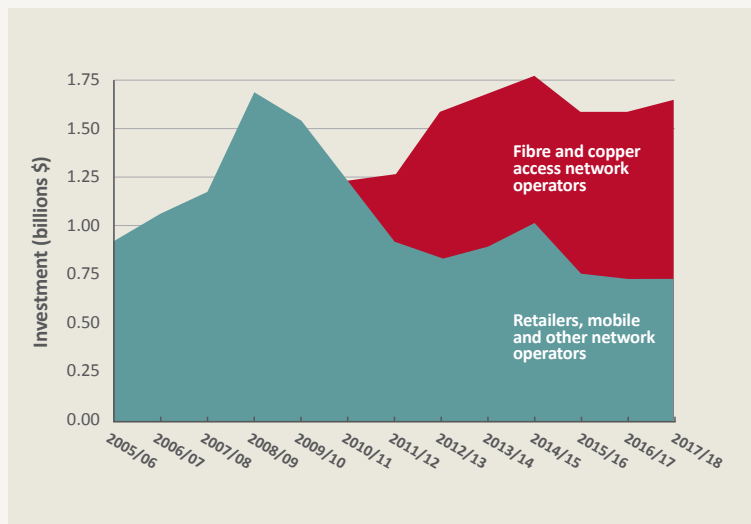
In the other energy networks, businesses have on the whole forecast relatively consistent levels of expenditure compared with prior years, with an increase in the short term. Although we are in the process of investigating a number of instances of non-compliance with the quality standards by individual electricity distributors, we have not seen evidence to suggest that any performance issues are related to the level of confidence businesses have to invest in regulated services.

The significant increase in proposed airports spend is predominately due to the significant investment programme currently being forecast to be undertaken at Auckland Airport.

## Telecommunications

Telecommunications industry investment continues to be dominated by the large ongoing investment by Chorus and Local Fibre Companies (LFCs), as shown in the diagram below. As well as the ongoing UFB fibre rollout, investment was also driven by continuing technology upgrades in the rest of the industry. Overall investment was \$1.66 billion in 2018, up 4.7% after remaining relatively flat in 2017.

*Investment in the telecommunications sector*



## Our outputs

This section provides detailed reporting on our output performance against our targets, as included in our Statement of Performance Expectations 2018/19. Where appropriate, we have included comparative performance information against the performance measures and results for prior years. Our performance targets for 2018/19 are also included to provide context to the results. We have provided commentary for measures where we have not met our targets.

### Competition and Consumer

This section reports on the output performance measures contained in our *Statement of Performance Expectations 2018/19*, as well as the Estimates of Appropriations 2018/19 under the Vote Business, Science and Innovation: Enforcement of General Market Regulation multi-category appropriation (MCA). The MCA consists of two output classes; these are the Competition and Consumer output classes.

#### Output measures

Measures	Output class	2018 actual	2019 target	2019 actual	Comments
Number of merger clearance applications processed (demand driven)	Competition	9	5-20	11	
Number of authorisation applications processed (demand driven)	Competition	1	0-5	2	
Percentage of merger clearance decisions made within 40 working days when no letter of issues is sent to parties <sup>8</sup>	Competition	20%	75%	100%	
Average number of working days from date of decision to date of publication of reasons for declined clearance applications	Competition	27 days	10 days	N/A	There were no declined clearances in 2018/19
Number of Commerce Act cases completed	Competition	13	5-20	14	
Percentage of competition investigations decided within 18 months of the investigation being opened	Competition	100%	95%	100%	
Number of Fair Trading Act matters completed	Consumer	206	175-300	230	
Number of product safety and information standards matters completed	Consumer	103	75-150	90	
Number of Credit Contracts and Consumer Finance Act matters completed	Consumer	131	50-100	63	
Percentage of consumer investigations decided within 12 months of the investigation being opened	Consumer	88%	95%	94%	Refer to <b>Note 1</b>

8. This measure includes a 'stop the clock' provision. The criteria for stopping the clock are:
- requests from the merger parties or third parties for further time to respond to information requests if this would cause delay to the Commerce Commission's investigation
  - time spent assessing divestment undertakings, or
  - if the review of the merger by another jurisdiction(s) is causing delays to the Commerce Commission's investigation.

**Note 1: Percentage of consumer investigations decided within 12 months of the investigation being opened.**

Timeliness across the Commission's consumer investigations narrowly missed meeting our target of 95%. This was primarily due to the completion of several long-standing credit investigations. We continue to consider measures to increase the efficiency of our work in the consumer credit and investigations area, which will be a focus for 2019/20.

## Finances

Our competition and consumer work is primarily funded by the Crown, through the Vote Business, Science and Innovation: Enforcement of General Market Regulation multi-category appropriation.

Our competition studies work is funded from the Competition Studies appropriation.

We also receive revenue which funds this work from third-party application fees, interest revenue, cost awards from successful litigation cases, and cost recoveries for shared corporate services with other state sector agencies.

The table below outlines the revenue and expenditure relating to the delivery of the competition and consumer outputs:

### Competition

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	8,043	8,043
Other revenue	498	349
<b>Total operating revenue</b>	<b>8,541</b>	<b>8,392</b>
<b>Total operating expenses</b>	<b>8,070</b>	<b>8,391</b>
<b>SURPLUS</b>	<b>471</b>	<b>1</b>

Expenditure in the Competition output class was less than budget. The under-spend was mainly due to lower than expected external consultant costs. Higher than anticipated activity in the enforcement work stream was offset by lower mergers expenditure. Advocacy expenditure was also less than budget.

### Consumer

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	11,144	11,144
Other revenue	409	458
<b>Total operating revenue</b>	<b>11,553</b>	<b>11,602</b>
<b>Total operating expenses</b>	<b>11,796</b>	<b>11,601</b>
<b>SURPLUS</b>	<b>(243)</b>	<b>1</b>

Consumer output class expenditure was \$0.195 million higher than budget. The main reason for the over-spend was the decision to begin work for the CCCF Act reform, for which funding commences in 2019/20. This activity was not included in the budget for 2018/19.

Other revenue was less than budget due to lower than expected interest and fee income.

## Competition studies

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	1,368	1,500
Other revenue	7	7
<b>Total operating revenue</b>	<b>1,375</b>	<b>1,507</b>
<b>Total operating expenses</b>	<b>1,375</b>	<b>1,507</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

With the fuel market study not commencing until partway through the year, Competition Studies output class expenditure was less than budget for 2018/19. The under-spend was mainly due to lower than expected external consultant costs.

## Appropriation funding

The following table shows the funding made available by the Crown through the Estimates and Supplementary Estimates compared with that recognised by the Commission in the year for our Competition, Consumer and Competition Studies appropriations.

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
<b>Vote Business, Science and Innovation: Enforcement of General Market Regulation MCA</b>				
<b>Enforcement of Competition Regulation</b>				
Revenue – Crown	8,043	8,043	8,043	0
<b>Enforcement of Consumer Regulation</b>				
Revenue – Crown	11,144	11,144	11,144	0
<b>Total</b>	<b>19,187</b>	<b>19,187</b>	<b>19,187</b>	<b>0</b>
<b>Vote Business, Science and Innovation: Competition Studies</b>				
Revenue – Crown	1,500	1,500	1,368	(132)



## Regulated industries

This section reports on the performance measures contained in our *Statement of Performance Expectations 2018/19*, as well as the Estimates of Appropriations 2018/19 under Vote Business, Science and Innovation:

- Enforcement of Telecommunications Sector Regulation
- Enforcement of Telecommunications Sector Fibre and Broadcasting Transmission Service Regulation 2019–2022 (multi-year appropriation)
- Economic Regulation of Electricity Lines Services 2014–2019 (multi-year appropriation)
- Economic Regulation of Gas Pipeline Services 2014–2019 (multi-year appropriation)
- Economic Regulation of Specified Airport Services 2014–2019 (multi-year appropriation)
- Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting.

## Output measures

Measure	Output class	2018 actual	2019 target	2019 actual
Number of determinations (includes determinations, clarifications, reviews and amendments)	Telecommunications	4	0-3	3
	Electricity	11	2-10	5
	Gas	6	2-7	3
	Airports	3	2-4	3
Number of determinations (includes determinations, clarifications, reviews, codes and amendments)	Fibre	New measure	0-1	0
Average time to complete telecommunications determinations <sup>9</sup>	Telecommunications	6 months	6 months	3.5 months
Percentage of Part 4 of the Commerce Act 1986 determinations completed by statutory deadlines	Electricity	100%	100%	Not applicable <sup>10</sup>
	Gas	100%	100%	
	Airports	100%	100%	
Number of reports completed (monitoring reports, summary and analysis reports and information disclosure reports)	Telecommunications	1	0-5	6
	Electricity	2	0-7	6
	Gas	2	0-3	1
	Airports	0	0-3	2
	Dairy	2	2	2
Number of Part 4 inquiries completed	Part 4 inquiries	0	0-1	0

9. This measure only includes routine determinations that are completed on a regular basis. Distinct one-off determinations are excluded, as inclusion would skew the average for the year in which they were completed so it is no longer comparable with other years.

10. None of the determinations completed in 2018/19 had statutory deadlines. Part 4 determinations completed were either amendments or cost of capital determinations, neither of which have a statutory deadline.

## Finances

Our regulation work is primarily funded by the Crown through the five appropriations, with our work under Part 4 of the Commerce Act funded by three multi-year appropriations, each for an initial 5-year period (2014-2019).

We also receive revenue for this work from cost recoveries for shared corporate services with other state sector agencies, and cost recoveries for specific determinations applied for by third parties.

Financial information for our regulation work is shown below.

## Telecommunications

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	5,689	6,000
Other revenue	501	517
<b>Total operating revenue</b>	<b>6,190</b>	<b>6,517</b>
<b>Total operating expenses</b>	<b>6,190</b>	<b>10,014</b>
<b>SURPLUS/(DEFICIT)</b>	<b>0</b>	<b>(3,497)</b>

The 2018/19 budget deficit was a result of the Commission making allowance for new fibre regulation responsibilities prior to new Crown funding being approved. New Crown funding was approved after the budget was finalised, and at that time the Commission established a new Fibre output class for this activity.

Expenditure in the Telecommunications output class was below budget. Higher than anticipated activity in the public reports and advice to officials work stream was offset by lower determinations expenditure. Compliance and enforcement expenditure was also less than budget.

Other revenue included \$0.476 million from invoicing applicants for a portion of the final pricing principle (FPP) costs.

## Fibre

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	3,327	0
Other revenue	17	0
<b>Total operating revenue</b>	<b>3,344</b>	<b>0</b>
<b>Total operating expenses</b>	<b>3,344</b>	<b>0</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

Fibre output class expenditure was less than budget mainly due to lower than expected external consultant costs. The 2018/19 budget did not reflect Crown funding as this was not confirmed at the time the budget was prepared.

## Electricity lines services

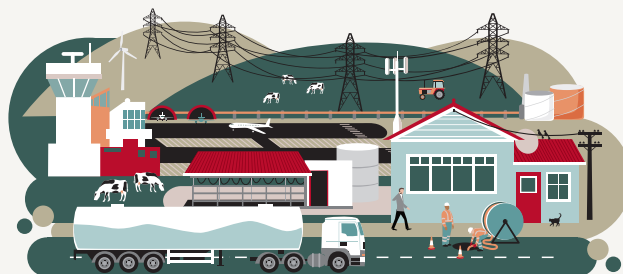
	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	7,473	7,942
Other revenue	38	37
<b>Total operating revenue</b>	<b>7,511</b>	<b>7,979</b>
<b>Total operating expenses</b>	<b>7,511</b>	<b>7,979</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

Expenditure in the Electricity output class was less than budget. The under-spend was mainly due to lower than expected internal resourcing and external consultant costs. Higher than budgeted determinations costs were offset by lower expenditure in the compliance and enforcement and the public reports and advice to officials work streams.

## Gas pipeline services

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	1,646	1,857
Other revenue	8	7
<b>Total operating revenue</b>	<b>1,654</b>	<b>1,864</b>
<b>Total operating expenses</b>	<b>1,654</b>	<b>1,864</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

Gas output class expenditure was less than budget. The under-spend was mainly due to lower than expected external consultant costs in the compliance and enforcement and the public reports and advice to officials work streams.



## Airport services

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	673	763
Other revenue	3	4
<b>Total operating revenue</b>	<b>676</b>	<b>767</b>
<b>Total operating expenses</b>	<b>676</b>	<b>767</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

Expenditure in the Airports output class was less than budget. The main reason for the under-spend was lower than anticipated external consultant expenditure in the public reports and advice to officials work stream.

## Dairy

	2019 Actual \$000	2019 Budget \$000
<b>Operating revenue</b>		
Revenue – Crown	429	595
Other revenue	2	2
<b>Total operating revenue</b>	<b>431</b>	<b>597</b>
<b>Total operating expenses</b>	<b>431</b>	<b>597</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

Expenditure in the Dairy output class was below budget. External consultant expenditure related to the 2018/19 season reviews of Fonterra's milk price manual and base milk price calculation was less than budget. There were no determinations during the year and no compliance expenditure was incurred.

## Appropriation funding

The table below shows the funding made available by the Crown through the Estimates and Supplementary Estimates compared with that recognised by the Commission in the year for each of our regulation appropriations.

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
<b>Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Regulation</b>				
Revenue – Crown	6,000	6,621	5,689	(932)
<b>Vote Business, Science and Innovation: Enforcement of Telecommunications Sector Fibre and Broadcasting Transmission Service Regulation (MYA)</b>				
Cumulative funding to 1 July 2018	0	0	0	0
Revenue – Crown	0	3,200	3,327	127
<b>Cumulative funding to 30 June 2019</b>	<b>0</b>	<b>3,200</b>	<b>3,327</b>	<b>127</b>
Remaining appropriation	0	9,100	8,973	(127)
<b>Total appropriation</b>	<b>0</b>	<b>12,300</b>	<b>12,300</b>	<b>0</b>
<b>Vote Business, Science and Innovation: Economic Regulation of Electricity Lines Services 2014-2019 (MYA)</b>				
Cumulative funding to 1 July 2018	21,380	21,360	21,390	30
Revenue – Crown	7,713	7,723	7,473	(250)
<b>Cumulative funding to 30 June 2019</b>	<b>29,093</b>	<b>29,083</b>	<b>28,863</b>	<b>(220)</b>
Remaining appropriation	0	0	220	220
<b>Total appropriation</b>	<b>29,093</b>	<b>29,083</b>	<b>29,083</b>	<b>0</b>
<b>Vote Business, Science and Innovation: Economic Regulation of Gas Pipeline Services 2014-2019 (MYA)</b>				
Cumulative funding to 1 July 2018	8,099	8,663	7,817	(846)
Revenue – Crown	1,767	1,485	1,646	161
<b>Cumulative funding to 30 June 2019</b>	<b>9,866</b>	<b>10,148</b>	<b>9,463</b>	<b>(685)</b>
Remaining appropriation	0	0	685	685
<b>Total appropriation</b>	<b>9,866</b>	<b>10,148</b>	<b>10,148</b>	<b>0</b>
<b>Vote Business, Science and Innovation: Economic Regulation of Specified Airport Services 2014-2019 (MYA)</b>				
Cumulative funding to 1 July 2018	2,207	2,565	2,028	(537)
Revenue – Crown	683	504	673	169
<b>Cumulative funding to 30 June 2019</b>	<b>2,890</b>	<b>3,069</b>	<b>2,701</b>	<b>(368)</b>
Remaining appropriation	0	0	368	368
<b>Total appropriation</b>	<b>2,890</b>	<b>3,069</b>	<b>3,069</b>	<b>0</b>
<b>Vote Business, Science and Innovation: Enforcement of Dairy Sector Regulation and Auditing of Milk Price Setting</b>				
Revenue – Crown	757	757	429	(328)

## Major litigation

This section reports on the performance measures contained in our *Statement of Performance Expectations 2018/19*, as well as the Estimates of Appropriations 2018/19 under the Vote Business, Science and Innovation: Commerce Commission Litigation Funds MCA.

We undertake litigation across our functions where we believe this is likely to achieve the most effective outcome. Major Litigation funding is used where cases meet the conditions for accessing the fund.

Our litigation workload varies considerably each year based on the:

- number and types of cases we choose to litigate or that are brought against us
- appeals we defend
- complexity of the cases we have before us
- court timetables
- parties' approaches to the litigation.

## Output measure

Measure	Output class	2018 actual	2019 target	2019 actual
Using the Fund according to conditions for use	Major litigation	Achieved	Achieved	Achieved

## Finances

Major Litigation is funded by the Crown out of the multi-category appropriation Vote Business, Science and Innovation: Commerce Commission Litigation Fund. The internally-sourced litigation category is used to meet the costs of resourcing litigation from our internal capability, while the externally-sourced litigation category is used to meet the external direct costs of resourcing major litigation activity. For our internally-sourced litigation, we also receive a share of the revenue from shared services cost recoveries.

	2019 Actual \$000	2019 Budget \$000
<b>Externally-sourced litigation</b>		
<b>Operating revenue</b>		
Revenue – Crown	3,620	6,981
<b>Total operating revenue</b>	<b>3,620</b>	<b>6,981</b>
<b>Total operating expenses</b>	<b>3,336</b>	<b>6,981</b>
<b>SURPLUS</b>	<b>284</b>	<b>0</b>
<b>Internally-sourced litigation</b>		
<b>Operating revenue</b>		
Revenue – Crown	3,490	3,468
Other revenue	21	21
<b>Total operating revenue</b>	<b>3,511</b>	<b>3,489</b>
<b>Total operating expenses</b>	<b>3,511</b>	<b>3,489</b>
<b>SURPLUS</b>	<b>0</b>	<b>0</b>

Externally-sourced litigation expenditure was below budget as the Commission successfully reached settlements and resolved matters more quickly than expected. The budget for litigation is based on the planned court process at the start of the year. The surplus of \$0.284 million reflects the reversal of an adverse costs award made in the High Court in the Lodge cartel case, which has been reversed due to our successful appeal to the Court of Appeal. A Supreme Court hearing has recently been held, the final outcome of which is not yet known.

Internally-sourced litigation expenditure was marginally higher than budget but within appropriation.

### Appropriation funding

The table below shows the funding made available by the Crown through the Estimates and Supplementary Estimates compared with that recognised by the Commission in the year for the appropriation Vote Business, Science and Innovation: Commerce Commission Litigation Funds MCA.

	Estimates \$000	Supplementary Estimates \$000	Actual \$000	Difference vs Supplementary Estimates \$000
<b>Commerce Commission externally-sourced litigation</b>				
Revenue – Crown	7,500	7,500	3,620	(3,880)
<b>Commerce Commission internally-sourced litigation</b>				
Revenue – Crown	3,500	3,500	3,490	(10)
<b>Total</b>	<b>11,000</b>	<b>11,000</b>	<b>7,110</b>	<b>(3,890)</b>

# Organisation capability and health

## Our values

Our values provide a strong foundation for all our work. They guide the way that we operate, and our vision and strategy should be considered with them in mind.

### EXCELLENCE

- > We produce excellent work that stands up to scrutiny
- > We continually look for ways to improve
- > We recruit and retain excellent people and support their development

### INTEGRITY

- > Our independence inspires the trust and confidence of New Zealanders
- > We are fair, honest and impartial

### ACCOUNTABILITY

- > We answer to New Zealanders for the work we do and the money we spend
- > We take individual responsibility to deliver what we say we will

### RESPECT

- > We work together, and support and respect each other
- > We value the diversity of people and their opinions

### GOOD JUDGEMENT

- > We understand the environment in which we operate and the impact of our actions
- > What we do is relevant and useful
- > We are proactive and flexible and look for common-sense solutions



## Working efficiently

As an independent Crown entity, funded by New Zealanders, it is vital that we operate in the most efficient and effective way.

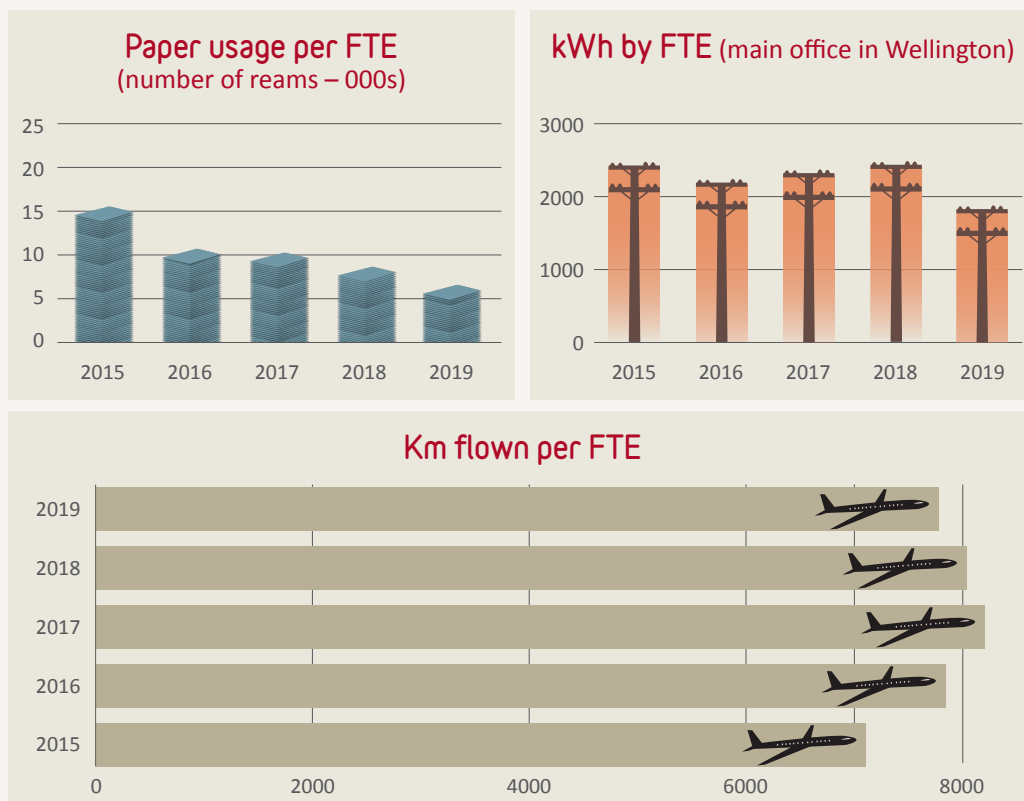
We understand the impact our processes and decisions can have on businesses and are committed to improving the efficiency and timeliness of our decisions.

We also continue to look for ways to save on back office costs. This includes sharing reception and meeting room facilities with the Tertiary Education Commission in Wellington and providing information services to the Electricity Authority by hosting their IT infrastructure and providing Chief Information Officer and IT helpdesk services.

## Environmental sustainability

We are committed to minimising our impact on the environment. We monitor our flight, paper and energy usage and continue to look for ways to reduce our environmental footprint.

Between 2015 and 2019 we have more than halved our paper use, which has saved a significant amount of money and limited our environmental impact. We managed this through a range of initiatives, including the rollout of 'Follow-Me' printing, the introduction of mobile devices and technology, default duplex printing, greater support for flexible working arrangements, and enhanced filing protocols.



## Being a good employer

Having excellent people is critical to our success. We are committed to fostering a connected and collaborative environment which is inclusive, diverse, safe and healthy, with excellent people leadership and management, to attract, develop and retain our people.

We have refreshed our People Strategy to ensure it supports our Business Strategy and that we are prioritising the right activities. Our focus continues to be on attracting, supporting and developing our people, in line with the following seven elements of being a good employer, as set out by the New Zealand Human Rights Commission.

Elements	Initiatives
Leadership, Accountability and Culture	<p>Our focus on excellent people leadership capability encourages high performance, creating a great workplace to enable our people to excel. We continue to strengthen our leadership capability by providing a range of development opportunities including on-the-job experience, coaching and skills development programmes. Our People Leaders Forum provides an interactive platform for continuous sharing and learning.</p> <p>We invest in creating a culture where our people are clear on the purpose of the Commission and their respective branch, along with how their role contributes to achieving this, and the values and behaviours underpinning how we work together. We have refreshed our People Strategy and goals, Code of Conduct and core people policies to support this.</p>
Recruitment, Selection and Induction	<p>Introducing our dedicated in-house recruitment function has further refined our ability to recruit excellent people. We work hard to ensure a robust process is followed to appoint the best person, with a focus on embracing diversity and employment equity.</p>
Employee Development, Promotion and Exit	<p>We have refreshed our Capability and Development policy and framework delivered through our new HR system to recognise the role of ongoing development to support high performance. Our Commission-wide training programme provides development opportunities for all staff. These are supplemented with targeted development programmes for individuals which are reviewed annually.</p>
Flexibility and Work Design	<p>Through the application of our refreshed Flexible Working policy and updated technology applications we strive to accommodate flexible arrangements and organise work to support both our people needs and the needs of our business.</p>
Remuneration, Recognition and Conditions	<p>We maintain our adherence to Government Expectations on Employment Relations in the State Sector. Recent activities include updating of our position descriptions, job sizing, and remuneration benchmarking against the market through our specialist provider. We plan to initiate a further review of our Remuneration strategy and framework to further refine our approach. We are introducing a new Family Violence policy in support of the legislative changes, covering family violence leave and flexible working, introduced to support domestic violence victims and to promote awareness of the problem towards prevention.</p>
Harassment and Bullying Prevention	<p>We have a zero tolerance of harassment, bullying and discrimination. Our organisational values, Code of Conduct, refreshed Anti-harassment, Bullying and Discrimination policy, and updated Protected Disclosures policy and process all detail our expected behaviours.</p>
Safe and Healthy Work Environment	<p>Our health, safety and wellness policy and framework ensure we maintain a healthy and safe work environment. We comply with workplace health and safety laws and have safe operating procedures for several potential risks specific to our business. We invest in our branded wellness programme (Maxwell), which offers a range of health initiatives, including mental health, to help support and optimise our employees' health and wellness.</p>

## Evaluating our capability and health

In our Statement of Intent 2017-2022 we set out the measures to monitor our organisational health and capability. We do not set targets for staff turnover and average years of service but aim to ensure these reflect a sustainable level.

Measure	2019	2018
Overall level of employee engagement	In development <sup>11</sup>	In development
Employee turnover	11.22%	13.2%
The average number of years of experience of our employees (with the Commerce Commission)	4.8	5.8

### Profile of our people at 30 June

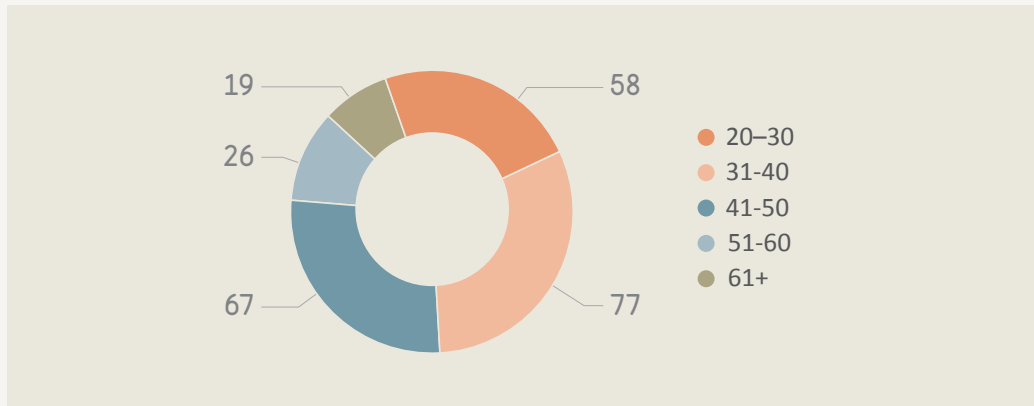
	2019	2018
Number of employees	247	222 <sup>12</sup>
Male	51%	53%
Female	49%	47%
Percentage of employees on flexible working arrangements	12.1%	9.5%



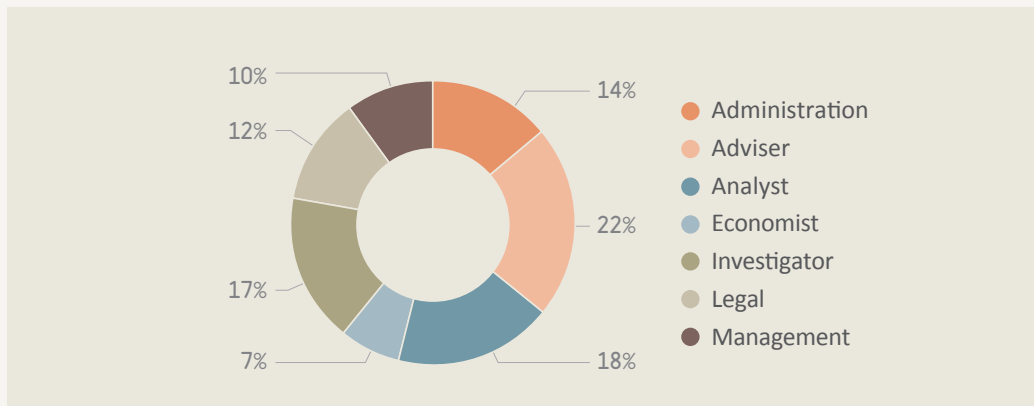
11. Following a comprehensive review process, we are launching a new employee feedback platform to enable regular employee input on a range of employee experience topics.

12. The Commission's employee count for 2017/18 has been updated from 184 to 222 to include fixed term employees. Historically, the employee count excluded fixed term employees.

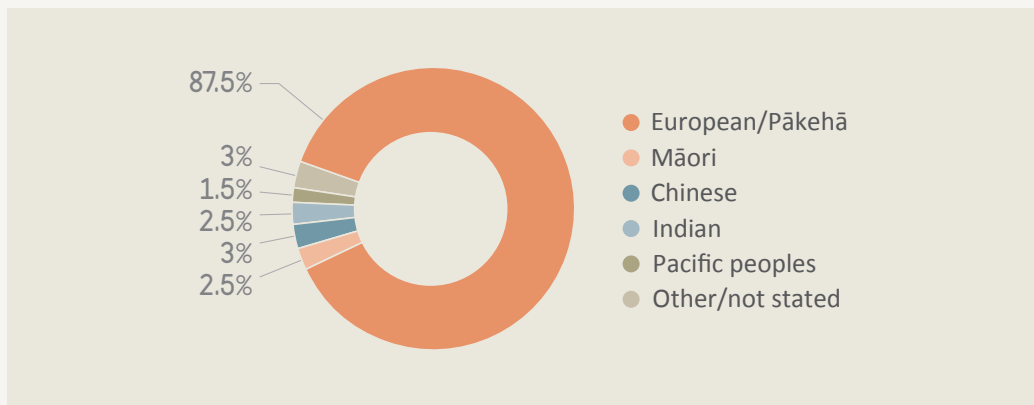
### Age profile



### Occupation profile



### Ethnicity profile



## Gender pay gap

The Commission is actively looking to close the gender pay gap and grow diversity. We will continue to focus on the pipeline for recruitment of women to specialist roles through our Diversity and Inclusion policies.

Two thirds of our Board (our full Commissioners) are women. 40% of our senior leadership team including the Chief Executive are women.

In July 2018 the State Services and Women's Ministers jointly announced a 2018-2020 action plan to eliminate the gender pay gap in the public service. One of their targets is *"all agencies closing any gender pay gaps within the same roles"*. The Commission has compared gender pay across comparable roles and this shows a gap close to zero.

	2019	2018
Median difference between male and female employees	22.6%	22.7%
Average difference between male and female employees	14.8%	15.7%

Our gender pay gap is largely caused by having a higher number of male staff in technical specialist roles, particularly in our regulated industries work, and more women in our administrative roles.

## Diversity and inclusion in our organisation

Within our refreshed People Strategy, a core goal includes building and maintaining an inclusive, diverse and healthy environment where our people are safe, feel valued, supported and respected, and can flourish.

Examples of progress include a refresh of our Equality, Diversity and Inclusion policy and compiling a programme of work to identify priority initiatives. Through our partnership with Diversity Works we have participated in several initiatives, including a workshop on unconscious bias, and are completing an internal stocktake of our diversity and inclusion landscape to enable our future focus.

Our active Diversity and Inclusion network has hosted several guests covering a wide range of topics under the external speakers series. We have celebrated various events including Pink Shirt Day, language weeks, and the Rainbow Public Service 2019 survey.

The Tupu Tai Pasifika Public Sector Summer Internship programme is an interagency government initiative that supports Pacific students to explore policy career pathways within the public sector. The enthusiastic participation in the Tupu Tai Pasifika summer internship programme was a highlight for the Commission.

We aim to maintain a diverse, bias-free and respectful workplace that allows employees to perform at their best to achieve the Commission's objectives. We have an updated disability register and aim to ensure our workplace environment caters to people of all abilities, with assistance available to all employees as required.

# Our governance and management

## Meet our Board



Left to right: Joseph Lia'ava, John Crawford, Stephen Gale, Jill Walker, Anna Rawlings, Sue Begg, John Small, Elisabeth Welson.

### Anna Rawlings

#### Chair

Anna Rawlings was appointed Chair in June 2019 and has been a Commissioner since June 2014. She was previously a partner in the dispute resolution division of Minter Ellison Rudd Watts, where she specialised in contentious and non-contentious aspects of competition, regulatory and consumer law. Anna holds a BA/LLB (Hons) from the University of Auckland and an LLM from the University of Toronto, where her work focused on law and economics.

### Dr Mark Berry

#### Chairman



Mark Berry was appointed Chairman from April 2009 to May 2019. He is a former partner of law firm Bell Gully and former consultant with Chapman Tripp. Mark has been in practice as a barrister sole since 2002 and holds a doctorate from Columbia University, New York. He is a former member of the faculty at Otago University Law School and is a member of the International Advisory Board at the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law.

### Sue Begg

#### Deputy Chair

Sue Begg was appointed as a Commissioner in June 2009 and Deputy Chair in July 2010. She was an Associate Member of the Australian Competition and Consumer Commission from April 2016 to June 2019. Sue is an economist, whose previous roles include director of the consultancy company Impetus Group Limited, Vice-President and head of the economic advisory unit of the investment banking division of Credit Suisse First Boston NZ Limited (and its predecessor companies) and manager of the Macroeconomic Policy section at the Treasury.

### Dr Stephen Gale

#### Telecommunications Commissioner

Stephen Gale was appointed as the Telecommunications Commissioner in July 2012. Prior to July 2012 he was an Associate Commissioner for 2 years. Stephen has specialised for some years in infrastructure economics (energy, telco and transport) and competition proceedings at the consulting firm Castalia. Before that he was at the New Zealand Institute of Economic Research. He holds a PhD from the University of Cambridge.

## Dr Jill Walker

### Commissioner

Jill Walker has been a Commissioner since 1 December 2015, following her appointment as an Associate Commissioner in November 2010. She was a Commissioner of the Australian Competition and Consumer Commission (ACCC) from September 2009 to April 2016. Before joining the ACCC, Jill was a Member of the Australian Competition Tribunal and worked as an economic consultant. She is currently a member of the Bureau of the Competition Committee of the Organisation for Economic Co-operation and Development (OECD). She holds a BA in Economics and a PhD in Land Economy from the University of Cambridge. She also holds an MA in Economics from the University of Massachusetts.

## Elisabeth Welson

### Commissioner

Elisabeth Welson was appointed in September 2012 as Associate Commissioner and as a Commissioner in August 2013. Before joining the Commission, she was a senior commercial partner at Simpson Grierson, where she co-led the competition and regulatory group and headed the energy, natural resources and utilities market group. Elisabeth holds an LLB (Hons) from the University of Auckland and has practised as a barrister and solicitor in New Zealand as well as a solicitor of the Supreme Court of Queensland and solicitor of the Supreme Court of New South Wales.

## John Crawford

### Associate Commissioner

John Crawford was appointed as an Associate Commissioner in October 2018. Prior to joining the Commission, John was Chief Executive of Auckland Council Investments. He has also held senior management roles at the Treasury, Department of the Prime Minister and Cabinet, and New Zealand Trade and Enterprise. John has substantial commercial and regulatory experience in key sectors such as electricity, energy and telecommunications. He has undergraduate degrees in Science and Engineering, and also holds an MBA from the University of Auckland.

## Dr John Small

### Associate Commissioner

John Small was appointed as an Associate Commissioner in December 2018. John is the Founding Director of economic consultancy firm Covec and was also the former Head of the University of Auckland's Economics Department. He has extensive experience in undertaking complex competition analysis in a wide range of sectors, including energy, transport, agriculture, telecommunications, payment systems, and construction. John was also previously a lay member of the High Court of New Zealand, frequently called as an expert witness before courts, tribunals and commissions.

## Joseph Liava'a

### Associate Commissioner

Joseph Liava'a was appointed as an Associate Commissioner in April 2019. Prior to joining the Commission, Joseph worked as the Community Liaison Manager for Nirvana Health Group. Before that he was a consumer law adviser for the former Ministry of Consumer Affairs and also worked as a private secretary for the Minister. Joseph has given consumer law training to budget advice services and community law centres. He has been involved with a variety of boards and panels, including Pacific Health and Welfare Inc, Vaiola Pacific Island Budgeting Service Trust (Mangere), Otara Health Charitable Trust, and the board of Consumer New Zealand.

## Sarah Court

### Associate Commissioner (ACCC cross-appointment)



Sarah Court was cross-appointed from the Australian Competition and Consumer Commission as an Associate Commissioner in December 2015. She has been a Commissioner of the ACCC since April 2008. She is a former senior executive lawyer and director with the Australian Government Solicitor. She has extensive experience in Commonwealth legal work, including restrictive trade practices, consumer protection and law enforcement litigation. As Chair of the ACCC's Enforcement Committee, Sarah oversees the agency's enforcement and litigation programme. She also sits on the ACCC's Merger Review Committee, Adjudication Committee and Infrastructure Committee.

## Roger Featherston

### Associate Commissioner (ACCC cross-appointment)



Roger Featherston was cross-appointed from the Australian Competition and Consumer Commission as an Associate Commissioner from April 2018 to June 2019. He was a Commissioner of the ACCC between June 2014 and June 2019 where he chaired the Mergers Review Committee and Adjudication Committee and was a member of the Enforcement Committee and Communications Committee. Roger was a special counsel for the ACCC from 2012 to 2014, focusing on enforcement projects in respect of supermarkets and petrol retailing. He is a former competition and regulatory law partner at Mallesons Stephen Jaques.

The Hon Sir Bruce Robertson KNZM and Michael Behrens QC were Cease and Desist Commissioners for the full year. Their terms ended on 26 October 2018.

Fred Hutchings is our external Convenor of the Audit and Risk Committee. Fred was a partner with PricewaterhouseCoopers and now holds several governance roles, including Chairman of Seeka Limited, director of Speirs Group Limited, convenor of Ngati Awa audit and risk committee and an independent member of the ACC Risk Assurance and Audit Committee. Formerly he was Chairman of Tui Products Limited, of the OAG Audit and Risk Committee, and of the Ministry of Foreign Affairs and Trade Audit and Risk Committee. He is also a Past President of Chartered Accountants Australia and New Zealand.

## Board and Commissioner responsibilities

The Governor-General, on the recommendation of the Minister of Commerce and Consumer Affairs, appoints Commission Members. The Telecommunications Commissioner is appointed on the recommendation of the Minister of Broadcasting, Communications and Digital Media. Associate Commissioners are appointed by the Minister of Commerce and Consumer Affairs.

### Decision making

The Commission's functions and powers are conferred and limited by legislation. In addition to its governance functions, the Board and Associate Commissioners have a wide range of formal decision-making powers to make decisions and determinations that significantly affect the legal rights, duties and interests of others. The Chair establishes sub-groups called Divisions to administer and enforce the laws under their specific responsibility.

### Governance of the organisation

The Board discharges the functions and requirements of the Commission in several ways, including:

- monitoring the Commission's performance and planning its strategic direction
- using delegations to make our work more efficient, including delegating authority to the Chief Executive
- using advisory committees to the Board, such as the Audit and Risk Committee (ARC)
- overseeing a broad variety of strategies, policies, processes, systems, frameworks and analytical approaches that help ensure effective decision making.

### Health and safety

The Board has overall responsibility for managing health and safety, including exercising due diligence to ensure the Commission complies with its duties under workplace health and safety laws and actively engages in matters affecting the health, safety and wellness of staff.

### Conflicts of interest

The Board maintains a register of interests, which reflects the interest declared by Board members and Associate Commissioners. Interests are actively managed by the Board in accordance with the relevant provisions of the Crown Entities Act 2004.

### Managing risk effectively

We actively manage risk at the Commission to increase the likelihood of achieving our objectives. The Board is responsible for reviewing and approving our risk management framework but delegates day-to-day management of risk to the Chief Executive. This delegation ensures that risk is seen as part of the overall business process, with a robust framework of identification, evaluation, monitoring and control in place.

### Ministerial directions

The Minister of State Services and the Minister of Finance have communicated the following directions to the Commission under section 107 of the Crown Entities Act:

- Procurement functional leadership (New Zealand Gazette, 19 June 2014). We have continued to comply with the Government Rules of Sourcing in support of a whole-of-government approach to procurement.
- Support for a whole-of-government approach to the New Zealand Business Number (NZBN) (New Zealand Gazette, 14 July 2016). We have integrated the NZBN as the primary identifier for relevant businesses in our core system, Streamline. In May 2017 we implemented lookup functions, bringing business data into the system from the NZBN database via MBIE's online interfaces. MBIE has expressed interest in using the Commission's implementation of NZBN as a case study.

No directions were given to the Commission in writing by a Minister under any enactment during the year ended 30 June 2019.



## Meet our Senior Leadership Team



Left to right: Nick Russ, Adrienne Meikle, John McLaren, Antonia Horrocks, Geoff Williamson.

### Adrienne Meikle

#### *Chief Executive*

Adrienne Meikle joined the Commission in May 2018. Before this, Adrienne held senior leadership positions at MBIE, most recently as Deputy Chief Executive, Corporate, Governance and Information Group. Prior to joining MBIE in 2012, she held the roles of Acting Deputy Secretary, Tourism, Events and Consumer Affairs, Director of Legal in the former Ministry of Economic Development, Chief Legal Advisor in the former New Zealand Food Safety Authority, and Parliamentary Counsel and Private Secretary in the Attorney-General's office. Adrienne has also worked for the Department of Corrections and Ministry of Education and has a BA/LLB and an LLM (Hons).

### Antonia Horrocks

#### *General Manager Competition and Consumer*

Antonia Horrocks manages the Commission's Competition and Consumer Branch, which is responsible for education, compliance and enforcement under the FT Act, the Commerce Act (merger, trade practices, and market studies functions) and the CCCF Act. Antonia joined the Commission in August 2016 from the UK's Competition & Markets Authority. Prior to that, she worked as an antitrust lawyer in London for nearly a decade, most recently as Counsel at Shearman & Sterling (LLP) in London. She started her career in New Zealand and has a law degree, a BA (Hons) in English, and a Postgraduate Diploma in EU Competition Law.

### Nick Russ

#### *General Manager Regulation*

Nick Russ manages the Commission's regulatory functions across a number of sectors, including electricity lines, gas pipelines, major airports, telecommunications and dairy. He was previously Head of Part 4 and Dairy. Nick joined the Commission in November 2010 as a Chief Adviser working across a range of regulatory issues. Before joining the Commission, he spent a number of years working for energy regulators. Nick has a degree in electrical engineering and is a chartered engineer.

### Geoff Williamson

#### *General Manager Organisation Performance*

Geoff Williamson joined the Commission in July 2011 and leads the organisation performance functions. Geoff was Acting Chief Executive of the Commission between January and May 2018. He was previously Director Corporate Services at the Tertiary Education Commission and Chief Financial Officer at the National Library of New Zealand, and has held a range of roles at Deloitte. Geoff has a BCA and an Executive Master of Public Administration, and is a Chartered Accountant.

### John McLaren

#### *Principal Adviser*

John McLaren joined the Commission in 2008. He is currently working on secondment to advise the Chief Executive on organisation strategy and also supports the Board and Senior Leadership Team in the planning and prioritisation of strategic dialogue. With over a decade of experience at the Commission, John has held a variety of roles since first joining the Regulation Branch when Part 4 of the Commerce Act was amended. John has a degree in Economics.

# Our finances

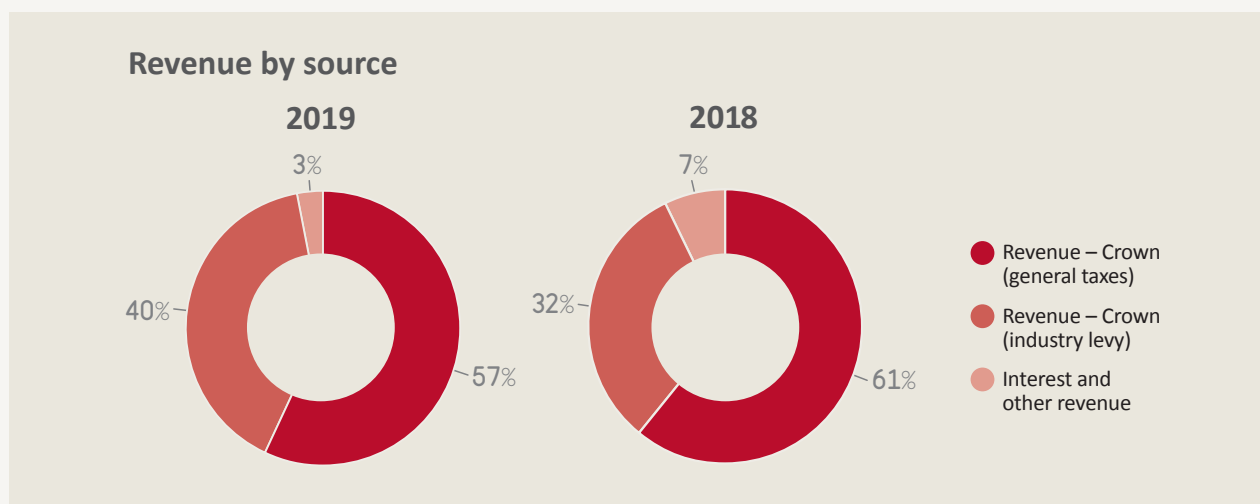
## Financial statements overview

The Commission's financial results and our financial position show that we continue to operate within our funding despite increasing demands and functions placing pressure on our organisation. This section provides an overview of our financial statements for the year ended 30 June 2019.

### Revenue

The Commission recorded revenue of \$48.4 million for 2019, compared to \$44.3 million in 2018. Much of our Crown-sourced revenue has restrictions limiting the revenue recognised to the extent that expenditure has been incurred.

The largest contribution to our revenue is from the Crown, through a combination of general taxes and industry levies (which pay for the regulation of, for instance, electricity lines businesses). Other sources of revenue include interest on cash we hold, court cost awards from litigation, and application fees paid by businesses seeking clearances and other determinations.

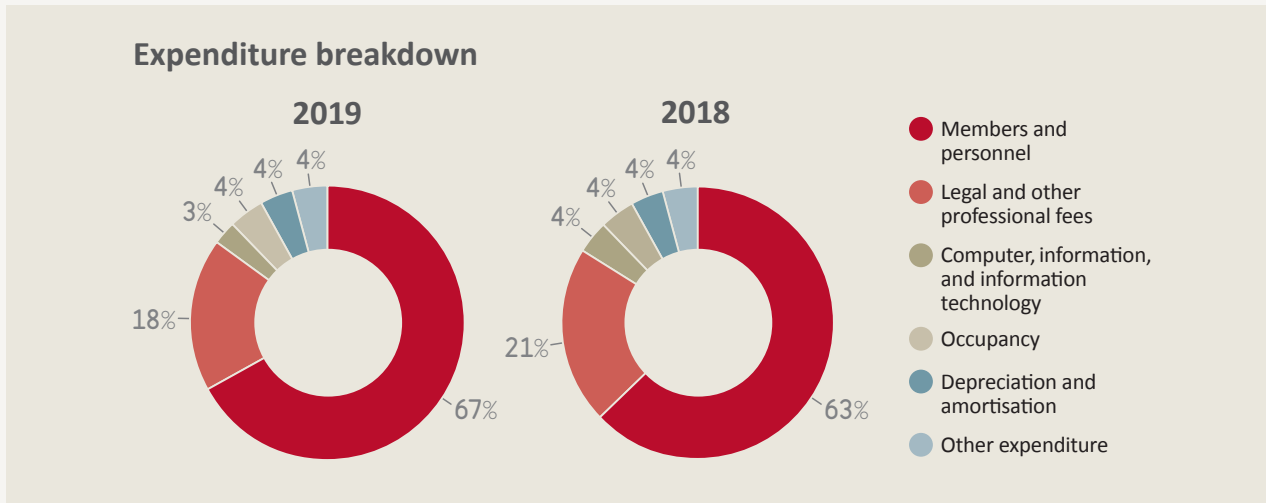


The Crown funding received as appropriations provides us with the resources to complete several work streams. The funding is a maximum amount we may spend (excluding revenue from other sources) for each stream. We budget to produce our work within this funding. In the earlier part of this annual report, we have provided tables for each work stream showing total revenue and expenses.

In 2019, Crown funding sourced from industry levies comprised a greater proportion of our total revenue as we received additional funding to begin the process of setting the new Fibre regulatory regime in place. We received significantly less revenue from fees and recoveries as we had no applications for customised price-quality paths for regulated businesses this year.

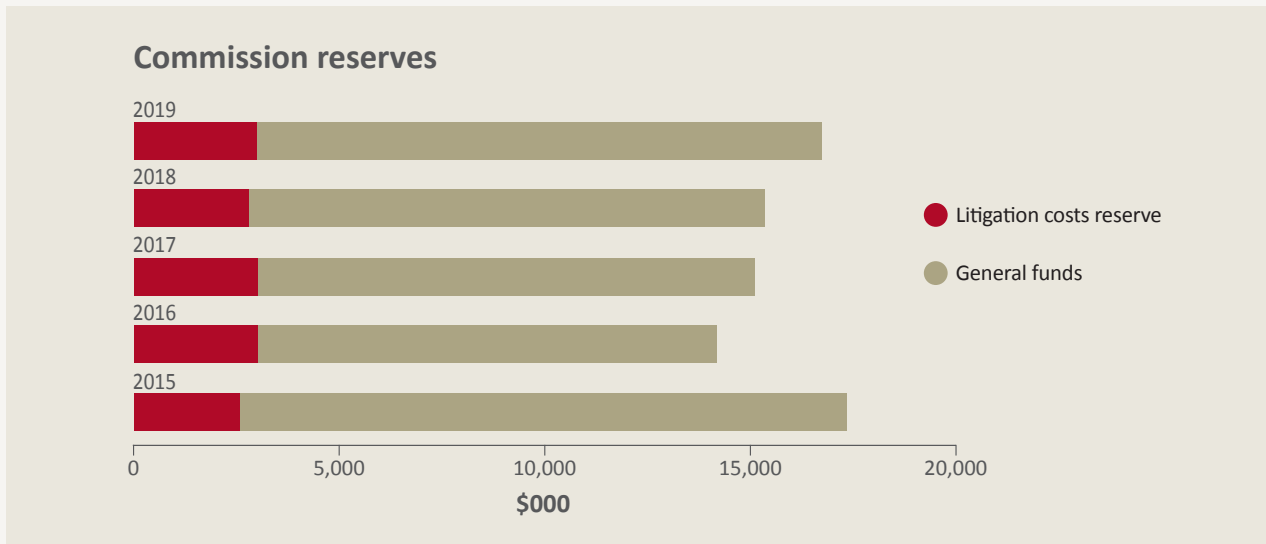
## Expenditure

This year we spent \$47.9 million, compared to a budgeted spend of \$53.2 million and a prior year spend of \$43.7 million. Expenditure on Board members and staff was up significantly on last year and close to our 2019 budget, while legal and other professional fees were less than budget due to less expenditure on litigation.



Expenditure on staff and Commissioners makes up approximately two-thirds of our 2019 expenditure. This percentage is up slightly on 2018 (and prior years) and reflects the increasing size of our workforce to manage additional functions and activity. Expenditure on associated costs of additional staff, such as occupancy costs, additional computer and IT infrastructure, and depreciation and amortisation on office equipment and software have grown proportionately, with a decreasing proportion of costs spent on external legal and other professional support.

## Financial position



We maintain reserves at a level which allows us to manage litigation risks and other financial risks. These risks are diverse but can involve large unanticipated expenditures in a relatively short timeframe. For instance, if we lose a large multi-party litigation case, we may have to pay large adverse cost awards to the winning parties. Alternatively, we may have to incur unplanned expenditure on a Part 4 inquiry or a large merger clearance or authorisation (including legal costs) while continuing to deliver our business as usual activities.

The Commission's equity (or reserves) at 30 June 2019 was \$16.3 million, an increase of \$0.5 million on 2018. Of this, \$0.28 million is an increase in the Litigation costs reserve back to \$3.0 million due to a successful appeal of a litigation case erasing a provision we made for paying court costs. The remainder is a small surplus in our Competition and Consumer output class.

Our 2020 budget expects a \$1.3 million reduction in Commission reserves due to cost pressures we are experiencing.

## Statement of responsibility

Under the Crown Entities Act 2004, the Board of the Commerce Commission is responsible for the preparation of the Commission's financial statements and statement of performance, and for the judgements made in them.

We are also responsible for any end-of-year performance information provided by the Commission under section 19A of the Public Finance Act 1989, whether or not that information is included in the Commission's annual report.

The Commission's Board is also responsible for establishing, and has established, a system of internal controls designed to provide reasonable assurance of the integrity and reliability of our financial reporting.

In the Board's opinion, these financial statements and the statement of performance reflect a true and fair view of the financial position, and results of the operations, of the Commission for the year ended 30 June 2019.

Signed on behalf of the Board:



**Anna Rawlings** *Chair – Commerce Commission*

31 October 2019



**Sue Begg** *Deputy Chair – Commerce Commission*

31 October 2019

## Independent auditor's report

To the readers of the Commerce Commission's financial statements and performance information for the year ended 30 June 2019.

The Auditor-General is the auditor of the Commerce Commission (the Commission). The Auditor-General has appointed me, Karen Young, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the performance information, including the performance information for appropriations, of the Commission on his behalf.

### Opinion

We have audited:

- the financial statements of the Commission on pages 54 to 79, that comprise the statement of financial position as at 30 June 2019, the statement of comprehensive revenue and expense, statement of changes in equity, statement of cash flows and statement of accounting policies for the year ended on that date and the notes to the financial statements including other explanatory information; and
- the performance information of the Commission on pages 16 to 37.

In our opinion:

- the financial statements of the Commission on pages 54 to 79:
  - > present fairly, in all material respects:
    - its financial position as at 30 June 2019; and
    - its financial performance and cash flows for the year then ended; and
  - > comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards; and
- the performance information on pages 16 to 37:
  - > presents fairly, in all material respects, the Commission's performance for the year ended 30 June 2019, including:
    - for each class of reportable outputs:
      - its standards of delivery performance achieved as compared with forecasts included in the statement of performance expectations for the financial year; and
      - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year; and
    - what has been achieved with the appropriations; and
    - the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure.
  - > complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 31 October 2019. This is the date at which our opinion is expressed.

The basis for our opinion is explained below. In addition, we outline the responsibilities of the Board and our responsibilities relating to the financial statements and the performance information, we comment on other information, and we explain our independence.

## **Basis for our opinion**

We carried out our audit in accordance with the Auditor General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

We have fulfilled our responsibilities in accordance with the Auditor General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## **Responsibilities of the Board for the financial statements and the performance information**

The Board is responsible on behalf of the Commission for preparing financial statements and performance information that are fairly presented and comply with generally accepted accounting practice in New Zealand. The Board is responsible for such internal control as it determines is necessary to enable it to prepare financial statements and performance information that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements and the performance information, the Board is responsible on behalf of the Commission for assessing the Commission's ability to continue as a going concern. The Board is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Commission, or there is no realistic alternative but to do so.

The Board's responsibilities arise from the Crown Entities Act 2004 and the Public Finance Act 1989.

## **Responsibilities of the auditor for the audit of the financial statements and the performance information**

Our objectives are to obtain reasonable assurance about whether the financial statements and the performance information, as a whole, are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of these financial statements and the performance information.

For the budget information reported in the financial statements and the performance information, our procedures were limited to checking that the information agreed to the Commission's statement of performance expectations.

We did not evaluate the security and controls over the electronic publication of the financial statements and the performance information.

As part of an audit in accordance with the Auditor General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the financial statements and the performance information, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.

- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.
- We evaluate the appropriateness of the reported performance information within the Commission's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Board and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements and the performance information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the financial statements and the performance information, including the disclosures, and whether the financial statements and the performance information represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

### **Other information**

The Board is responsible for the other information. The other information comprises the information included on pages 2 to 81, but does not include the financial statements and the performance information, and our auditor's report thereon.

Our opinion on the financial statements and the performance information does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

In connection with our audit of the financial statements and the performance information, our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the financial statements and the performance information or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

### **Independence**

We are independent of the Commission in accordance with the independence requirements of the Auditor General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1 (Revised): Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

Other than in our capacity as auditor, we have no relationship with, or interests, in the Commission.



**Karen Young**

**Audit New Zealand**

On behalf of the Auditor General  
Wellington, New Zealand

# Financial Statements

## Statement of comprehensive revenue and expense

for the year ended 30 June 2019

	Notes	2019 Actual \$000	2019 Budget \$000	2018 Actual \$000
<b>Operating revenue</b>				
<i>Revenue from non-exchange transactions</i>				
Revenue – Crown		46,902	48,293	41,297
Court cost awards		133	50	38
<b>Total revenue from non-exchange transactions</b>		<b>47,035</b>	<b>48,343</b>	<b>41,335</b>
<i>Revenue from exchange transactions</i>				
Fees and recoveries		537	526	2,140
Interest		603	600	592
Other revenue		231	226	301
<b>Total revenue from exchange transactions</b>		<b>1,371</b>	<b>1,352</b>	<b>3,033</b>
<b>Total operating revenue</b>		<b>48,406</b>	<b>49,695</b>	<b>44,368</b>
<b>Operating expenses</b>				
Members and personnel	1	32,143	32,218	27,733
Legal and other professional fees	2	8,712	13,960	9,302
Computer, information, and information technology		1,337	1,175	1,213
Occupancy	3	1,875	1,831	1,801
Depreciation and amortisation		1,963	2,197	1,813
Other expenditure	4	1,864	1,809	1,869
<b>Total operating expenses</b>		<b>47,894</b>	<b>53,190</b>	<b>43,731</b>
<b>Surplus</b>		<b>512</b>	<b>(3,495)</b>	<b>637</b>
<b>TOTAL COMPREHENSIVE REVENUE AND EXPENSE</b>		<b>512</b>	<b>(3,495)</b>	<b>637</b>

The accompanying statement of accounting policies and notes to the financial statements on pages 58–79 form part of the financial statements.



## Statement of changes in equity

for the year ended 30 June 2019

	2019 Actual \$000	2019 Budget \$000	2018 Actual \$000
<b>Balance at 1 July</b>	<b>15,759</b>	<b>15,749</b>	<b>15,122</b>
<b>Comprehensive revenue and expense</b>			
Surplus/(deficit)	512	(3,495)	637
<b>Total comprehensive revenue and expense</b>	<b>512</b>	<b>(3,495)</b>	<b>637</b>
<b>BALANCE AT 30 JUNE</b>	<b>16,271</b>	<b>12,254</b>	<b>15,759</b>

The accompanying statement of accounting policies and notes to the financial statements on pages 58–79 form part of the financial statements.

## Statement of financial position

as at 30 June 2019

	Notes	2019 Actual \$000	2019 Budget \$000	2018 Actual \$000
<b>Equity</b>				
General funds	5	13,271	9,254	13,043
Litigation costs reserve	5	3,000	3,000	2,716
<b>Total equity</b>		<b>16,271</b>	<b>12,254</b>	<b>15,759</b>
<b>Current assets</b>				
Cash and cash equivalents	6	5,202	1,696	2,446
Fees and recoveries receivable		299	130	198
Short-term investments		13,000	8,000	14,000
Prepayments		911	673	528
<b>Total current assets</b>		<b>19,412</b>	<b>10,499</b>	<b>17,172</b>
<b>Non-current assets</b>				
Property, plant and equipment	7	3,410	4,379	3,470
Intangibles	8	1,618	2,460	2,266
<b>Total non-current assets</b>		<b>5,028</b>	<b>6,839</b>	<b>5,736</b>
<b>Total assets</b>		<b>24,440</b>	<b>17,338</b>	<b>22,908</b>
<b>Current liabilities</b>				
Creditors and other payables	9	1,631	1,005	1,065
Accrued expenses		1,326	650	432
Lease incentive		181	238	238
Provisions	10	0	0	284
Penalties and cost awards held in trust	11	209	50	214
Crown funding repayable	12	1,659	244	1,669
Employee entitlements	13	1,973	1,769	1,881
<b>Total current liabilities</b>		<b>6,979</b>	<b>3,956</b>	<b>5,783</b>
<b>Non-current liabilities</b>				
Lease incentive		1,190	1,128	1,366
<b>Total non-current liabilities</b>		<b>1,190</b>	<b>1,128</b>	<b>1,366</b>
<b>Total liabilities</b>		<b>8,169</b>	<b>5,084</b>	<b>7,149</b>
<b>NET ASSETS</b>		<b>16,271</b>	<b>12,254</b>	<b>15,759</b>

The accompanying statement of accounting policies and notes to the financial statements on pages 58–79 form part of the financial statements.

## Statement of cash flows

for the year ended 30 June 2019

	Notes	2019 Actual \$000	2019 Budget \$000	2018 Actual \$000
<b>Cash flows from operating activities</b>				
Crown funding received		52,239	48,537	44,106
Fees and recoveries received		919	802	2,580
Receipts and payment of penalties (net)		(5)	0	(65)
Interest received		617	600	622
Member and employee payments		(31,994)	(32,114)	(27,471)
Supplier payments		(13,464)	(19,074)	(14,494)
Repayment of Crown funding		(5,464)	(824)	(4,930)
Goods and services tax (net)		163	(32)	53
<b>Net cash inflow from operating activities</b>	14	<b>3,011</b>	<b>(2,105)</b>	<b>401</b>
<b>Cash flows from investing activities</b>				
Investments receipts/(deposits)		1,000	5,000	0
Property, plant and equipment sale proceeds		0	0	1
Property, plant and equipment purchases		(954)	(1,988)	(289)
Intangible asset purchases		(301)	(1,200)	(369)
<b>Net cash inflow/(outflow) from investing activities</b>		<b>(255)</b>	<b>1,812</b>	<b>(657)</b>
<b>Cash flows from financing activities</b>				
Reserves returned to the Crown		0	0	0
<b>Net cash (outflow) from financing activities</b>		<b>0</b>	<b>0</b>	<b>0</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>2,756</b>	<b>(293)</b>	<b>(256)</b>
Opening cash and cash equivalents		2,446	1,989	2,702
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	6	<b>5,202</b>	<b>1,696</b>	<b>2,446</b>

The GST (net) component of operating activities reflects the net GST paid and received from the Inland Revenue Department (IRD). We have presented the GST component on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

We have presented receipts and payment of penalties and cost awards as a net item because the Commission holds these funds in trust in accordance with agreements.

The accompanying statement of accounting policies and notes to the financial statements on pages 58–79 form part of the financial statements.

# Statement of accounting policies

for the year ended 30 June 2019

## Reporting entity

The Commerce Commission is a Crown entity (as defined by the Crown Entities Act 2004), established under the Commerce Act 1986, and operating solely within New Zealand. The ultimate parent of the Commission is the New Zealand Crown.

The Commission's main objective is to provide services to the New Zealand public, instead of making a financial return. We provide public services to meet our responsibilities under the Commerce Act 1986, the Fair Trading Act 1986, the Dairy Industry Restructuring Act 2001, the Telecommunications Act 2001 and the Credit Contracts and Consumer Finance Act 2003.

We are a public sector public benefit entity (PBE) for the purposes of the Accounting Standards Framework issued by the New Zealand External Reporting Board, because we are a public entity as defined in the Public Audit Act 2001.

## Measurement base and statement of compliance

These financial statements comply with the requirements of the Crown Entities Act, and are prepared on a historical cost basis for a going concern in accordance with New Zealand Generally Accepted Accounting Practice (GAAP) to comply with Tier 1 PBE accounting standards. The Commission authorised the financial statements for issue on 31 October 2019.

## Functional and presentation currency

The Commission's functional and presentation currency is the New Zealand dollar (rounded to the nearest thousand).

## Significant accounting policies

The accounting policies that significantly affect the measurement of comprehensive revenue and expenditure, financial position and cash flows were applied consistently for all reporting periods covered by these financial statements, including the comparative (prior year and budget) information. These are the significant accounting policies:

**Revenue** – Revenue is measured at the fair value of consideration (eg, money) received or receivable. We earn revenue from providing specific services (known as outputs) for the Crown, for services to other third parties, court cost award recoveries and interest revenue.

**Revenue – Crown** – The Commission receives funding via appropriations from the Crown. Revenue – Crown is a form of non-exchange transaction, because there is no direct relationship between the services we provide (funded through taxation and levies) and the general public we ultimately provide the services to. Our funding is restricted in its use for the purpose of meeting the Commission's objectives and the scope of the relevant appropriations. Revenue – Crown we receive but do not spend is refunded to the Crown after year end for all output classes except Vote Business, Science and Innovation – Enforcement of General Market Regulation, which the Commission is allowed to retain as reserves. Also, we may retain specific ring-fenced revenue provided to build up our ability to meet the cost of adverse cost awards.

Revenue from the Crown is initially recognised as a liability when received, and then as revenue when we have provided services which entitle us to the funding.

**Expenditure** – All expenditure we incur in providing services for the Crown or other third parties is recognised in the statement of comprehensive revenue and expense when an obligation to pay arises on an accruals basis.

**Foreign currency transactions** – Transactions in foreign currencies are converted into the Commission's functional currency (New Zealand Dollars) at exchange rates on the dates of the transactions. Monetary liabilities in foreign currencies at the reporting date are converted to New Zealand Dollars at the exchange rate on that date.

**Leases** – The Commission is party to various operating leases as a lessee. As the lessors retain substantially all of the risk and rewards of ownership of the leased property, plant and equipment, the operating lease payments are recognised as expenses only in the period in which they arise. Any lease incentives received or obligations to reinstate the condition of leased premises are recognised in the statement of comprehensive revenue and expense over the term of the lease. At balance date we recognise any unamortised lease incentive and outstanding obligation for reinstatement as a liability.

**Depreciation and impairment** – Depreciation (and amortisation for intangible assets) is provided on a straight-line basis on all assets to allocate the cost of the asset (less any estimated residual value) over its useful life. The residual values and remaining useful lives of property, plant and equipment components are reviewed at least annually. All property, plant and equipment are subject to an annual test of impairment to test the recoverable amount. Any impairment losses are recorded as an expense in the period in which they are first identified.

The estimated useful lives of the major asset classes are:

Computer and office equipment	3-4 years
Furniture and fittings	Up to 5 years
Leasehold improvements	For the period of the lease
Motor vehicles	Up to 5 years
Software and other intangible assets	Up to 5 years

**Taxation** – The Commission is exempt from income tax under section CW 38 of the Income Tax Act 2007.

**Cost allocation** – Direct costs are charged directly to outputs. Personnel costs are allocated to outputs based on time records. The indirect costs of support groups, and corporate overhead costs are charged to outputs based on the budgeted relative time records of each output.

**Goods and services tax (GST)** – All items in the financial statements are presented exclusive of GST, except for receivables, payables, and unearned Revenue – Crown received in advance, which are presented on a GST-inclusive basis. Where we cannot claim a portion of GST, we recognise the GST portion as part of the related asset or expense.

The net GST recoverable from, or payable to, the IRD is included as part of receivables or creditors in the statement of financial position, and classified as an operating cash flow in the statement of cash flows.

**Equity** – Equity is the Crown’s ownership interest in the Commission and is measured as the difference between total assets and total liabilities. We have classified equity into components and disclosed these separately to allow clearer recognition of the specified uses that we have for our equity.

**Cash and cash equivalents** – Cash and cash equivalents are our cash on hand, transactional cash balances in bank accounts, and some term deposits with maturities of less than 90 days held with New Zealand registered banks.

**Investments** – Investments are term deposits issued by New Zealand registered banks with maturities of more than 90 days. Investments are initially recognised and measured at fair value, usually the amount invested. After initial recognition, investments are measured at amortised cost. A loss allowance for expected credit losses is recognised if the estimated loss allowance is not trivial.

**Property, plant and equipment** – All items of property, plant and equipment owned are recorded at historical cost of purchase, less accumulated depreciation and any impairment losses. An item of property, plant and equipment acquired in stages is not depreciated until the item of property, plant and equipment is in its final state and ready for its intended use. Any later expenditure that extends the useful life or enhances the service potential of an existing item of property, plant and equipment is also capitalised and depreciated.

All other costs to maintain the useful life or service potential of an existing item of property, plant and equipment are recognised as expenditure when incurred. Any gain or loss arising from the sale or disposal of an item of property, plant and equipment is recognised in the period in which the item of property, plant and equipment is sold or disposed of.

**Intangible assets** – Computer software that is not integral to the operation of the hardware is recorded as an intangible asset, less accumulated amortisation.

**Employee entitlements** – Employee entitlements are unpaid salaries, bonuses, and annual leave due to our personnel. At balance date, any unpaid employee entitlements are recognised as a liability and charged as an expense. Entitlements are calculated on an actual entitlement basis using current salary rates.

**Contingencies** – As the Commission is a quasi-judicial body, it is engaged in litigation activity which may result in costs being ordered against or in favour of the Commission. The outcome of an order for costs may not be certain until all appeal processes are complete. Therefore, the possibility of a costs award being incurred or received is disclosed firstly as either a contingent liability or contingent asset, respectively. An award for costs, whether for or against the Commission, is only recognised in the statement of comprehensive revenue and expense when it is probable that there will be a payment or receipt of agreed costs which can be measured reliably.

**Comparatives** – To ensure consistency with the current year, all comparative information including the budget has been restated or reclassified where appropriate. The budget comparatives are those approved by the Commission at the beginning of the year for inclusion as prospective financial statements in our statement of performance expectations. The budget complies with GAAP and used accounting policies consistent with those used to prepare these financial statements.

### Changes in accounting policies

The accounting policies adopted above include changes due to the early adoption of *PBE IFRS 9 Financial Instruments* along with the rest of the Government Sector (see Note 25) but are otherwise consistent with the previous year.

### Changes to applicable reporting standards and interpretations

The XRB have issued the following reporting standards which are applicable to the Commission and not yet effective:

- *PBE IPSAS 39 Employee Benefits*, which replaces the current PBE IPSAS 25 Employee Benefits standard for reporting periods beginning on or after 1 January 2019, with early adoption permitted. The accounting and disclosure requirements of the new standard are substantially the same as the current standard and we do not expect any major effect on our accounts, but we have not yet completed a full assessment of any effect from applying the new standard. We will apply the new standard in our next Annual Report.
- *PBE FRS 48 Service Performance Reporting*, which establishes requirements for Tier 1 and Tier 2 public benefit entities to select and present service performance information. This standard is effective for reporting periods beginning on or after 1 January 2021, with early application permitted. We expect the effect of applying the new standard on our service performance reporting to be minor.
- *PBE IPSAS 41 Financial Instruments*, which is a public sector equivalent of PBE IFRS 9 Financial Instruments. The standard is effective for reporting periods beginning on or after 1 January 2022, with early adoption permitted. While we have not yet assessed the differences between this standard and PBE IFRS 9 (adopted in this Annual Report, see Note 25), we expect any effects to be minor.

# Notes to the financial statements

for the year ended 30 June 2019

## 1. Members and personnel

	2019 Actual \$000	2018 Actual \$000
Salaries and wages (including annual leave and other entitlements)	29,386	25,347
Defined contribution plan employer contributions	709	614
Cessation	59	14
Recruitment	334	412
Professional development	509	436
Other employment-related costs	1,146	910
<b>TOTAL MEMBERS AND PERSONNEL EXPENDITURE</b>	<b>32,143</b>	<b>27,733</b>

Employer contributions to defined contribution plans includes payments to KiwiSaver and the State Sector Retirement Savings Scheme.

During the year ended 30 June 2019, one employee received compensation and other benefits in relation to cessation totalling \$59,045 (2018: one employee, \$13,750).

### Employee annual remuneration bands over \$100,000

	2019 Actual #	2018 Actual #
\$100,000 – \$110,000	15	11
\$110,001 – \$120,000	24	12
\$120,001 – \$130,000	10	8
\$130,001 – \$140,000	15	14
\$140,001 – \$150,000	9	5
\$150,001 – \$160,000	10	14
\$160,001 – \$170,000	11	9
\$170,001 – \$180,000	2	1
\$180,001 – \$190,000	7	5
\$190,001 – \$200,000	3	6
\$200,001 – \$210,000	7	1
\$210,001 – \$220,000	0	1
\$220,001 – \$230,000	1	1
\$240,001 – \$250,000	0	1
\$250,001 – \$260,000	2	1
\$260,001 – \$270,000	1	1
\$280,000 – \$290,000	1	2
\$340,001 – \$350,000	1	0

## 2. Legal and other professional fees

	2019 Actual \$000	2018 Actual \$000
Legal consultants	4,920	6,244
Other consultants and experts	2,891	1,958
Specialist support services	1,135	793
Court award costs	(265)	284
Other expenses	31	23
<b>TOTAL LEGAL AND OTHER PROFESSIONAL FEES</b>	<b>8,712</b>	<b>9,302</b>

The court cost awards figure for 2019 above includes the reversal of a provision for a court cost award payable (see note 10), offset by a small adverse cost award paid for another litigation matter.

## 3. Occupancy

	2019 Actual \$000	2018 Actual \$000
Operating leases – rent	1,565	1,459
Other occupancy expenses	310	342
<b>TOTAL OCCUPANCY</b>	<b>1,875</b>	<b>1,801</b>

## 4. Other expenditure

	2019 Actual \$000	2018 Actual \$000
Telecommunications	389	284
Travel	906	839
Postage, photocopying and stationery	153	133
Publications and knowledge sharing	184	302
Loss on disposal of assets	0	6
Audit fees for financial statement audit	49	46
Other expenses	183	259
<b>TOTAL OTHER EXPENDITURE</b>	<b>1,864</b>	<b>1,869</b>



## 5. Equity

The Commission's total comprehensive revenue and expenses for the year of \$0.512 million (2018: \$0.637 million) flows to both our general funds and our litigation costs reserve. The respective increase or decrease in both reserves equal the Commission's total comprehensive revenue and expense for the year.

### General funds

	2019 Actual \$000	2018 Actual \$000
<b>Balance at 1 July</b>	<b>13,043</b>	<b>12,122</b>
Total comprehensive revenue and expense attributable	228	921
<b>BALANCE AT 30 JUNE</b>	<b>13,271</b>	<b>13,043</b>

The Commission's general funds are funds held in reserve as a result of past surpluses in certain output classes, plus an initial capital contribution from the Crown. The Commission is allowed to retain surpluses from our competition and consumer output class.

### Litigation costs reserve

	2019 Actual \$000	2018 Actual \$000
<b>Balance at 1 July</b>	<b>2,716</b>	<b>3,000</b>
Total comprehensive revenue and expense attributable	284	(284)
<b>BALANCE AT 30 JUNE</b>	<b>3,000</b>	<b>2,716</b>

The Commission undertakes major litigation for alleged breaches of legislation, and also defends regulations and rulings it sets under the Acts it administers. The litigation costs reserve is a contingency fund established to manage the impact of adverse cost awards from these cases. The Commission receives up to \$0.5 million in funding per year to build a contingency fund of up to \$3.0 million to help meet adverse cost awards. The Commission offsets this funding against any adverse cost awards it must pay to other parties during the year.

During the year the Commission reversed a provision for an adverse cost award from a litigation case, due to a successful appeal of a High Court decision. The reversal of the provision did not result in a draw down of any funding to replenish the reserve to its \$3.0 million cap.

## 6. Cash and cash equivalents

	2019 Actual \$000	2018 Actual \$000
Cash on hand and at bank	4,997	2,235
Cash held in trust	205	211
<b>TOTAL CASH AND CASH EQUIVALENTS</b>	<b>5,202</b>	<b>2,446</b>

While cash and cash equivalents at 30 June 2019 are subject to the expected credit loss requirements of PBE IFRS 9, no loss allowance has been recognised because the estimated loss allowance for credit losses is trivial.

The Commission holds unspent Crown funding received, which is subject to restrictions on how it may be spent, and when. We also hold cost awards in trust, a portion of which is payable to the Crown or Commission, while a further portion is held in trust for various parties. As part of the Commission's financial management, portions of these funds may be placed on term deposit or held as cash at bank. See notes 11 and 12 for the relevant amounts.

## 7. Property, plant and equipment

### Cost and valuation:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
<b>Balance at 1 July 2017</b>	<b>2,103</b>	<b>1,005</b>	<b>3,537</b>	<b>51</b>	<b>6,696</b>
Additions	246	22	8	0	276
Disposals	(99)	(55)	0	0	(154)
<b>BALANCE AT 30 JUNE 2018</b>	<b>2,250</b>	<b>972</b>	<b>3,545</b>	<b>51</b>	<b>6,818</b>

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
<b>Balance at 1 July 2018</b>	<b>2,250</b>	<b>972</b>	<b>3,545</b>	<b>51</b>	<b>6,818</b>
Additions	877	77	0	0	954
Disposals	(2)	0	0	0	(2)
<b>BALANCE AT 30 JUNE 2019</b>	<b>3,125</b>	<b>1,049</b>	<b>3,545</b>	<b>51</b>	<b>7,770</b>

Property, plant and equipment not yet commissioned at 30 June 2019 totalled \$39,000 (2018: \$Nil).

### Depreciation and impairment losses:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
<b>Balance at 1 July 2017</b>	<b>1,457</b>	<b>416</b>	<b>632</b>	<b>17</b>	<b>2,522</b>
Depreciation expense	388	165	411	10	974
Elimination on disposal	(92)	(56)	0	0	(148)
<b>BALANCE AT 30 JUNE 2018</b>	<b>1,753</b>	<b>525</b>	<b>1,043</b>	<b>27</b>	<b>3,348</b>

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
<b>Balance at 1 July 2018</b>	<b>1,753</b>	<b>525</b>	<b>1,043</b>	<b>27</b>	<b>3,348</b>
Depreciation expense	437	172	398	7	1,014
Elimination on disposal	(2)	0	0	0	(2)
<b>BALANCE AT 30 JUNE 2019</b>	<b>2,188</b>	<b>697</b>	<b>1,441</b>	<b>34</b>	<b>4,360</b>

### Carrying amounts:

	Computer and office equipment \$000	Furniture and fittings \$000	Leasehold improvements \$000	Motor vehicles \$000	Total \$000
At 1 July 2017	646	589	2,905	34	4,174
At 30 June and 1 July 2018	497	447	2,502	24	3,470
<b>AT 30 JUNE 2019</b>	<b>937</b>	<b>352</b>	<b>2,104</b>	<b>17</b>	<b>3,410</b>

There is no restriction over the title of the Commission's assets. No property, plant and equipment assets are pledged as security for liabilities.

## 8. Intangibles

### Cost:

	TSLRIC models \$000	Acquired software \$000	Total \$000
<b>Balance at 1 July 2017</b>	<b>1,905</b>	<b>3,533</b>	<b>5,438</b>
Additions	0	369	369
Disposals	0	(44)	(44)
<b>BALANCE AT 30 JUNE 2018</b>	<b>1,905</b>	<b>3,858</b>	<b>5,763</b>

	TSLRIC models \$000	Acquired software \$000	Total \$000
<b>Balance at 1 July 2018</b>	<b>1,905</b>	<b>3,858</b>	<b>5,763</b>
Additions	0	301	301
Disposals	0	0	0
<b>BALANCE AT 30 JUNE 2019</b>	<b>1,905</b>	<b>4,159</b>	<b>6,064</b>

Intangible assets not yet commissioned at 30 June 2019 totalled \$147,000 (2018: \$293,000).

### Accumulated amortisation and impairment losses:

	TSLRIC models \$000	Acquired software \$000	Total \$000
<b>Balance at 1 July 2017</b>	<b>753</b>	<b>1,949</b>	<b>2,702</b>
Amortisation expense	476	363	839
Disposals	0	(44)	(44)
<b>BALANCE AT 30 JUNE 2018</b>	<b>1,229</b>	<b>2,268</b>	<b>3,497</b>

	TSLRIC models \$000	Acquired software \$000	Total \$000
<b>Balance at 1 July 2018</b>	<b>1,229</b>	<b>2,268</b>	<b>3,497</b>
Amortisation expense	477	472	949
Disposals	0	0	0
<b>BALANCE AT 30 JUNE 2019</b>	<b>1,706</b>	<b>2,740</b>	<b>4,446</b>

## Carrying amounts:

	TSLRIC models \$000	Acquired software \$000	Total \$000
At 1 July 2017	1,152	1,584	2,736
At 30 June and 1 July 2018	676	1,590	2,266
<b>AT 30 JUNE 2019</b>	<b>199</b>	<b>1,419</b>	<b>1,618</b>

The Commission holds licenses for use of certain software applications for which it does not hold title. For other software applications, there is no restriction over the title of the Commission's assets. No intangible assets are pledged as security for liabilities.

## 9. Creditors and other payables

	2019 Actual \$000	2018 Actual \$000
<b>Payables under exchange transactions</b>		
Creditors	828	448
<b>Total payables under exchange transactions</b>	<b>828</b>	<b>448</b>
<b>Payables under non-exchange transactions</b>		
PAYE and other taxes withheld for payment to the Crown	383	326
Goods and services tax payable to the Crown	420	291
<b>Total payables under non-exchange transactions</b>	<b>803</b>	<b>617</b>
<b>TOTAL CREDITORS AND OTHER PAYABLES</b>	<b>1,631</b>	<b>1,065</b>

## 10. Provisions

	2019 Actual \$000	2018 Actual \$000
<b>Current portion</b>		
Court cost awards	0	284
<b>Total current portion</b>	<b>0</b>	<b>284</b>
<b>TOTAL PROVISIONS</b>	<b>0</b>	<b>284</b>

Movements for each class of provision are as follows:

	Court cost awards \$000	Onerous lease \$000	Lease make-good \$000	Total \$000
<b>Balance at 1 July 2017</b>	<b>0</b>	<b>99</b>	<b>33</b>	<b>132</b>
Additional provisions made	284	0	0	284
Amounts used	0	(99)	(33)	(132)
<b>BALANCE AT 30 JUNE 2018</b>	<b>284</b>	<b>0</b>	<b>0</b>	<b>284</b>

	Court cost awards \$000	Onerous lease \$000	Lease make-good \$000	Total \$000
<b>Balance at 1 July 2018</b>	<b>284</b>	<b>0</b>	<b>0</b>	<b>284</b>
Additional provisions made	0	0	0	0
Unused amounts reversed	(284)	0	0	(284)
<b>BALANCE AT 30 JUNE 2019</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### Court cost awards provision

In June 2018 the Commission was ordered to pay costs to two parties. During 2019 the Commission successfully appealed the High Court decision, which extinguished the cost determination. For this reason the provision is no longer required.

### Onerous lease provision

In May 2015 the Commission decided to expand the Auckland office due to space constraints. In November 2015 new premises were leased in Auckland. As the Commission was unable to sublet the existing Auckland office and was no longer using the space, a provision for the remaining lease payments until the lease ended in January 2018 was recognised.

### Lease make-good provision

The Commission's previous Auckland office lease carried obligations to reinstate the premises at the end of a lease. This provision recognised an estimate of costs in relation to the lease.

## 11. Penalties and cost awards held in trust

	2019 Actual \$000	2018 Actual \$000
<b>Balance at the beginning of the year</b>	<b>214</b>	<b>295</b>
Court cost awards compensation received (or recognised as receivable), and interest earned	435	259
Infringement fees received (or receivable) and paid to the Crown (net)	(3)	(13)
Court cost awards, compensation, and interest paid out	(437)	(327)
<b>BALANCE AT THE END OF THE YEAR</b>	<b>209</b>	<b>214</b>

Penalties and cost awards held in trust are civil penalties and cost awards received by the Commission but payable to another party. This is generally the Crown, but can also be compensation received for third parties, or civil penalties and cost awards held in trust while a litigation case continues. The Commission may also be entitled to a portion of court cost awards received. The Commission is not entitled to any of the penalties received, but acts as an agent for the Crown in collecting and forwarding the penalties received.

Infringement fees are issued to various parties for breaches of legislation we enforce. The Crown receives the proceeds of the infringements issued. Any Fair Trading Act infringements unpaid after a certain length of time are transferred to the Ministry of Justice for collection. Infringements issued under the Telecommunications Act 2001 are collected by the Commission.

The Commission receives cost awards and compensation for third parties through our investigations and litigation activities. Cost awards are split between the Crown and the Commission, in proportion to the funding each contributes to the costs of pursuing the investigation or litigation. This split occurs once the investigation or litigation is complete and the total cost of the case is known. Interest is earned and paid on all cost awards and settlements received.

### Components of penalties and cost awards held in trust:

	2019 Actual \$000	2018 Actual \$000
Infringement fees due to the Crown (including receivable)	4	7
Court cost awards and compensation due to Crown or other parties	205	207
<b>BALANCE AT THE END OF THE YEAR</b>	<b>209</b>	<b>214</b>

In general, penalties received by the Commission must be paid to the Crown within 7 days of receipt, unless the penalties received are subject to an arrangement while litigation continues.

Where there are cases involving a number of parties, settlements can be received from some parties while others continue to defend. As a result, reliable estimates of total cost awards or settlements due to the Crown is not possible. This estimate can change substantially as the case progresses. In these situations, the Commission records a provision for the cost awards due to the Commission or the Crown which equals any cost awards received for that case. Once a case is finished and the total cost of the case and funds to distribute are known, the amount receivable and the amount due to the Crown are recognised, instead of a provision.

If we receive compensation settlements to pay to a number of third parties (eg, customers of a business we investigate), we recognise the whole amount as a payable to third parties when we receive the settlement.

Infringement fees are paid to the Crown every 4 months, after receipt.

## 12. Crown funding repayable

	2019 Actual \$000	2018 Actual \$000
Airports	12	205
Competition studies	152	0
Dairy	377	220
Electricity	265	0
Gas	139	324
Telecommunications	612	599
Litigation fund	102	321
<b>TOTAL CROWN FUNDING REPAYABLE</b>	<b>1,659</b>	<b>1,669</b>

## 13. Employee entitlements

	2019 Actual \$000	2018 Actual \$000
Accrued salaries and wages	236	201
Annual leave	1,358	1,388
Accrued performance and at-risk incentives	379	292
<b>TOTAL EMPLOYEE ENTITLEMENTS</b>	<b>1,973</b>	<b>1,881</b>



## 14. Reconciliation of operating surplus for the year to net cash inflows from operating activities

	2019 Actual \$000	2018 Actual \$000
<b>Operating surplus for the year</b>	<b>512</b>	<b>637</b>
<b>Non-cash items:</b>		
Depreciation and amortisation	1,963	1,813
Lease incentives recognised	(233)	(238)
<b>Total non-cash items</b>	<b>1,730</b>	<b>1,575</b>
<b>Items classified as investing or financing activities:</b>		
Gain on sale of property, plant and equipment	0	(1)
Loss on sale of property, plant and equipment	0	6
<b>Total items classified as investing or financing activities</b>	<b>0</b>	<b>5</b>
<b>Change in statement of financial position items:</b>		
Fees and recoveries receivable	(101)	148
Prepayments	(383)	119
Creditors	566	85
Accrued expenses	894	(367)
Crown funding repayable	(10)	(2,111)
Penalties and cost awards held in trust	(5)	(81)
Provisions	(284)	152
Employee entitlements	92	239
<b>Total change in statement of financial position items</b>	<b>769</b>	<b>(1,816)</b>
<b>NET CASH INFLOWS FROM OPERATING ACTIVITIES</b>	<b>3,011</b>	<b>401</b>

## 15. Critical accounting judgements and estimates

In authorising these financial statements for issue, the Commission has ensured that:

- all specific accounting policies needed to properly understand these financial statements are disclosed
- all adopted accounting policies are appropriate
- all accounting policies were applied consistently throughout the year.

When applying the accounting policies, the Commission is required to make certain judgements and estimates. The Commission has considered the following critical judgements and estimates to be appropriate.

### Contingencies

The Commission is party to several significant litigation cases and appeals as a result of its enforcement and quasi-judicial role. In undertaking significant litigation the Commission is faced with the risk of losing, and as a result having to pay a multi-million dollar cost award.

The Commission has assessed the likelihood of the appeals being successful and of costs being awarded against, or in favour of, the Commission.

Cost awards that are likely to result in a future receipt or payment of cost awards have been recognised as at 30 June 2019 in the statement of comprehensive revenue and expense. The Commission has also disclosed its contingent liabilities and assets as a result of cost awards that may possibly result in a future receipt or payment of costs as at 30 June 2019 (see note 16).

## 16. Contingent liabilities and assets

The Commission regularly has a number of matters before the court which may lead to future assets or future liabilities.

Where no judgment has been issued in a proceeding, our general presumption is that the outcome is rarely sufficiently predictable to register the case as giving rise to either a contingent asset or liability.

Litigation cases in which the Commission is involved are either civil cases (both as prosecutor and as a defendant when other parties appeal our decisions) or criminal prosecutions. Criminal prosecutions under the Fair Trading Act, CCCF Act and s 103 of the Commerce Act are not disclosed because if the Commission is successful any cost awards are payable to the Crown. Similarly, if the Commission is unsuccessful then very rarely will costs be ordered against the Commission. If costs are ordered against the Commission the costs are paid by the Crown.

We do not treat penalties as contingent assets of the Commission, as any penalties if received will be payable to the Crown.

### Contingent liabilities as at 30 June 2019:

#### *Harmony case stated*

The Commission sought the opinion of the High Court on whether a Platform Fee charged by Peer to Peer lender Harmony was a credit fee. Harmony appealed the finding of the High Court to the Court of Appeal. The Commission unsuccessfully sought to strike out this appeal, with judgment delivered on August 2019 awarding unquantified costs to Harmony. We await hearing of the substantive appeal.

### Contingent liabilities as at 30 June 2018:

There were no contingent liabilities.

## Contingent assets as at 30 June 2019:

### *Real Estate Fees – Hamilton*

In December 2015 the Commission brought proceedings against a number of real estate agencies in the Hamilton Real Estate market, concerning price fixing of marketing fees. In June 2018, the High Court found in favour of the defendants. The Commission successfully appealed in the Court of Appeal, with costs awarded in an unquantified amount. The defendants have appealed this decision to the Supreme Court, with judgment pending.

## Contingent assets as at 30 June 2018:

The Commission disclosed a contingent asset for costs in relation to appeals of the NZME/Fairfax (now Stuff) Merger, comprising an unquantified Court of Appeal amount and approximately \$195,000 in High Court costs. The Court awarded costs, and the Commission received approximately \$252,000 for this case during 2019.

## 17. Financial instruments

The carrying amounts of each class of financial assets and liabilities are:

### Monetary assets:

	2019 Actual \$000	2018 Actual \$000
<b>Financial assets measured at amortised cost (2018: Loans and receivables)</b>		
Cash and cash equivalents	5,202	2,446
Fees and recoveries receivable	299	198
Short-term investments	13,000	14,000
<b>TOTAL MONETARY ASSETS</b>	<b>18,501</b>	<b>16,644</b>

### Monetary liabilities:

	2019 Actual \$000	2018 Actual \$000
<b>Financial liabilities measured at amortised cost</b>		
Creditors	1,631	1,065
Penalties and cost awards held in trust	209	214
Crown funding repayable	1,659	1,669
<b>TOTAL MONETARY LIABILITIES</b>	<b>3,499</b>	<b>2,948</b>

Financial instruments include cash and cash equivalents, receivables, investments and payables resulting from day-to-day operations. There are risks inherent with all financial instruments and risk management policies are used to mitigate the exposure to market risk comprising liquidity risk, credit risk, interest rate risk and currency risk.

### Liquidity risk

Liquidity risk is the risk of not having enough liquid funds (eg, cash) available, leading to difficulty in making debt payments on their due date. As Crown funding is received quarterly in advance, the Commission does not have a material risk in meeting its day-to-day obligations as they fall due.

## Credit risk

Credit losses may occur if a third party defaults on obligations owed to the Commission, resulting in the Commission suffering a financial loss. Financial instruments which potentially subject the Commission to risk consist of cash and bank balances, receivables and investments (bank deposits). The maximum credit risk exposure is represented by the carrying amount of each monetary asset in the statement of financial position.

The Commission does not have a material credit risk for receivables due from third parties. All other receivables are due from the Crown. Cash not immediately needed to settle obligations as they fall due is invested with New Zealand registered banks with appropriate credit ratings. Limits are in place restricting deposit terms, individual deposit amounts, currency and the level of deposits with any one registered bank. The Commission is not exposed to any concentrations of credit risk, other than an exposure to the New Zealand banking sector. No collateral is required to be held as security against amounts owed to the Commission.

## Interest rate risk

As interest rates change, the fair value of interest-bearing bank deposits may change and future cash inflows will fluctuate. In accordance with the Commission's cash management policy, there are limits on the terms of all interest-bearing deposits, ensuring that deposits mature within 12 months (short-term). There are no other market risks.

The financial instruments carrying amount closely approximates their fair values as at 30 June 2019 and 30 June 2018. The average interest rate on interest-bearing term deposits over the year was 3.43% (2018: 3.52%). A 1% (100 basis points) change in interest rates, with all other factors unchanged, would change interest earnings by \$117,000 (2018: \$126,000).

## Currency risk

Currency risk results from fluctuations in the value of future cash outflows because of changes in foreign exchange rates. The Commission engages overseas experts and purchases specialist goods and services from foreign suppliers, requiring payment in a range of foreign currencies. The transactions are not hedged and are translated into New Zealand dollars at the exchange rate (spot) obtained when the invoices are paid. With all other factors unchanged, a 10% increase in exchange rates, would increase expenditure by \$68,800 (2018: \$69,300), while a 10% decrease in exchange rates would decrease expenditure by \$84,000 (2018: \$84,700).

## 18. Operating (non-cancellable) leases

### Operating (non-cancellable) lease payments due:

	2019 Actual \$000	2018 Actual \$000
Within 1 year	1,963	1,708
Within 1 to 2 years	2,062	1,446
Within 2 to 5 years	5,755	4,177
After 5 years	4,451	5,570
<b>TOTAL OPERATING (NON-CANCELLABLE) LEASES DUE</b>	<b>14,231</b>	<b>12,901</b>

The future operating (non-cancellable) lease payments consists of the contractual amounts due for leased office equipment and premises. The Commission leases offices in Auckland and Wellington, with the Wellington lease expiring in 2027, our previous Auckland office expiring in 2018, and the new Auckland office sub-lease expiring in 2025 (with a break right in 2023).

Under the Wellington lease there are further rights of renewal of up to 6 years, and under the Auckland lease a further right of renewal of 4 years. The Commission will not make any decisions on renewal in Wellington and Auckland until closer to the initial term expiry.

## 19. Capital expenditure commitments

	2019 Actual \$000	2018 Actual \$000
Computer and office equipment	220	697
Acquired software	82	17
Leasehold improvements	238	0
<b>TOTAL CAPITAL EXPENDITURE COMMITMENTS</b>	<b>540</b>	<b>714</b>

## 20. Related party transactions

The Commission is an Independent Crown Entity, primarily monitored by the Ministry of Business, Innovation, and Employment (MBIE) on behalf of the Minister of Commerce and Consumer Affairs and the Minister for Telecommunications.

Related party transactions with other government entities (eg, Crown entities or government departments) that are related parties, where the transactions are within a normal supplier relationship on normal commercial terms, or normal operating arrangements between government agencies made on the same terms have not been disclosed.

There were no other related party transactions during the year (2018: \$Nil).

### Key management personnel

	2019 Actual \$000	2018 Actual \$000
Members' remuneration	2,608	2,413
Senior leadership team remuneration	1,411	1,198
<b>TOTAL KEY MANAGEMENT PERSONNEL REMUNERATION</b>	<b>4,019</b>	<b>3,611</b>

	2019 Actual	2018 Actual
Members' full-time equivalents	5.8	5.3
Senior Leadership Team full-time equivalents	4.8	4
<b>TOTAL KEY MANAGEMENT PERSONNEL FULL-TIME EQUIVALENTS</b>	<b>10.6</b>	<b>9.3</b>

Key management personnel comprise all members of the Board, the Chief Executive Officer, and the members of the Senior Leadership Team.

## 21. Members' remuneration

	2019 Actual \$000	2018 Actual \$000
M Berry (Chairman to 31 May 2019)	509	619
A Rawlings (Commissioner to 31 May 2019, Chair from 1 June 2019)	289	243
S Begg (Deputy Chair)	413	375
S Gale (Telecommunications Commissioner)	420	423
E Welson (Commissioner)	362	339
G Crombie (Associate Commissioner until 18 December 2017)	0	50
J Walker (Commissioner)	356	364
J Crawford (Associate Commissioner from 19 November 2018)	105	0
J Small (Associate Commissioner from 17 December 2018)	108	0
J Liava'a (Associate Commissioner from 8 April 2019)	46	0
<b>TOTAL MEMBERS' REMUNERATION</b>	<b>2,608</b>	<b>2,413</b>

The Chair, Anna Rawlings, her predecessor, Dr Mark Berry, and the Telecommunications Commissioner, Dr Stephen Gale, are in full-time positions and receive leave entitlements. The dollar value of the movement in any accrued leave entitlement is included in the remuneration total above. All other Commissioners are paid for service on a daily rate set by the Remuneration Authority as follows:

### Members' daily rates:

	2019 \$	2018 \$
Deputy Chair	1,920	1,904
Commissioners and Associates	1,630	1,610

### Members' additional remuneration

Most Members are entitled to additional pay above the daily rate if the number of hours worked on any day exceeds eight hours. The daily rate includes any annual and sick leave entitlement, and no additional payments are made on account of annual leave or sick leave. The Chair and Telecommunications Commissioner are salaried appointments and receive annual leave and sick leave entitlements in addition to their salary. The Chair and Telecommunications Commissioner are not entitled to additional pay for additional hours worked.

### Other payments in respect of Members

The Commission paid \$15,179 to an Audit and Risk Committee member appointed by the Board who is not a Board member during the year (2018: \$6,288 to an Audit and Risk Committee member appointed by the Board who is not a Board member). This included payment for work completed but unbilled in the prior financial year.

The Commission has provided a Deed of Indemnity to Members for certain activities undertaken in the performance of the Commission's functions.

The Commission has taken out Directors' and Officers' Liability and Professional Indemnity insurance cover during the financial year in respect of the liability or costs of Members and employees.

No Members received compensation or other benefits in relation to cessation (2018: \$Nil).

## 22. Capital management

The Commission's capital is its equity, which is made up of general funds and other reserves as disclosed in note 5. Equity is represented by net assets.

The Commission is subject to the financial management and accountability provisions of the Crown Entities Act, which impose restrictions on borrowings, acquisition of securities, issuing guarantees and indemnities, and the use of derivatives.

The Commission manages its equity as a by-product of prudently managing revenues, expenses, assets, liabilities, investments and general financial dealings to ensure the Commission effectively achieves its objectives and purpose, while remaining a going concern.

## 23. Significant events after balance date

As an enforcement agency and regulator, the Commission is regularly involved in litigation and often has a large number of matters before the court. A number of financially insignificant matters have been progressed or finalised by 31 October 2019.

### **Steel & Tube**

In August 2019 the Commission successfully appealed in the High Court the District Court sentence of Steel & Tube for breaches of the Fair Trading Act. The High Court imposed an increased fine of \$2.009 million which is payable to the Crown. The Commission has sought leave for a further appeal of this sentence to the Court of Appeal.

## 24. Explanation of significant variances against budget

Significant variations from the budgeted figures in the *Statement of Performance Expectations 2018/19* are set out in the table below. Explanations for each variance are found underneath.

	Note	Actual \$000	Budget \$000	Actual \$000
<b>Statement of comprehensive revenue and expense</b>				
Revenue – Crown	1	46,902	48,293	(1,391)
Legal and other professional fees	2	8,712	13,960	(5,248)
<b>Statement of financial position</b>				
General funds	3	13,271	9,254	4,017
Cash and cash equivalents	4	5,202	1,696	3,506
Short-term investments	5	13,000	8,000	5,000
Property, plant and equipment	6	3,410	4,379	(969)
Intangibles	7	1,618	2,460	(842)
Crown funding repayable	8	1,659	244	1,415
<b>Statement of cash flows</b>				
Crown funding received	9	52,239	48,537	3,702
Supplier payments	10	13,464	19,074	(5,610)
Repayment of Crown funding	11	5,464	824	4,640
Investment receipts/(deposits)	12	1,000	5,000	(4,000)
Property, plant and equipment purchases	13	954	1,988	(1,034)
Intangible asset purchases	14	301	1,200	(899)

### Explanatory notes

- Revenue – Crown was \$1.4 million less than budget due to general under-spends across most of our output classes (see Note 12).
- Legal and other professional fees was \$5.2 million less than budget primarily due to significantly less expenditure on litigation related costs arising from settlements, court hearing delays, and favourable judgments.
- General funds were \$4.0 million greater than budget due to the Commission's surplus of \$0.5 million from under-spend in Competition and Consumer, compared to a budgeted deficit of \$3.5 million for Fibre implementation which was subsequently Crown funded.
- Cash and cash equivalents were \$3.5 million greater than budget as Crown funding received was \$3.7 million greater than budgeted, and expenditure against output classes and capital expenditure was less than budgeted.
- Short term investments were \$5.0 million greater than budget as we managed our cash funds differently to the high level assumptions made when setting the 2019 budget, and had greater cash funds on hand as discussed for cash and cash equivalents above.
- Property, plant and equipment was \$1.0 million less than budgeted as there were fewer broadband probes deployed than assumed, and delayed expenditure on leasehold fitout for additional Auckland Office space than our budgeted assumptions.
- Intangible assets were \$0.8 million less than budget due to slower development and deployment of new software systems.
- Crown funding repayable was \$1.4 million greater than budget as funding received in advance for many of our appropriations to fund our classes of outputs was greater than our expenditure against those output classes.
- Crown funding received was \$3.7 million greater than budget primarily due to the receipt of \$3.2 million of funding for Fibre implementation and \$0.2 million of additional Telecommunications funding.
- Supplier payments were \$5.6 million less than budget due to general under-spends across our output classes, and \$3.4 million less than budgeted Litigation Fund – External expenditure.
- Repayment of Crown funding was \$4.6 million greater than budget due to repayment of unneeded Litigation Fund – External funding during the year, and prior year Crown funding repayable being greater than expected.
- Investment receipts were \$4.0 million less than budget due to greater funds held in short term investments than expected (see variance explanation 5 above).
- Property, plant and equipment purchases were \$1.0 million less than budget as there were fewer broadband probes deployed than assumed, and delayed expenditure on leasehold fitout for additional Auckland Office space than our budgeted assumptions.
- Intangible asset purchases were \$0.9 million less than budget due to slower development and deployment of new software systems.



## 25. Implementation of PBE IFRS 9 Financial Instruments

The transitional provisions of PBE IFRS 9 allow the Commission to not restate the information for previous years to comply with PBE IFRS 9, which we have elected to do. Any adjustments from the adoption of PBE IFRS 9 with this method are recognised in opening equity at 1 July 2018.

We have updated our accounting policies to comply with PBE IFRS 9. The main update disclosed in our Significant Accounting Policies is:

- Investments: this policy has been updated to note that a loss allowance for expected credit losses is recognised only if the estimated loss allowance is not trivial.

In addition, while not a significant accounting policy, PBE IFRS 9 requires the application of an expected credit loss model to short-term receivables.

### Changes to measurement category

	Original PBE IPSAS 29 category	New PBE IFRS 9 category
Cash and cash equivalents	Loans and receivables	Amortised cost
Fees and recoveries receivable	Loans and receivables	Amortised cost
Short-term investments	Loans and receivables	Amortised cost

The measurement categories for financial liabilities have not changed between the closing 30 June 2018 and opening 1 July 2018 dates due to the transition to PBE IFRS 9.

### Changes to carrying amounts

There are no adjustments to the carrying amounts for financial assets between the closing 30 June 2018 and opening 1 July 2018 dates due to the transition to PBE IFRS 9. The Commission has assessed its expected credit losses on financial instruments and has not recognised any credit losses, as the amounts are trivial.

The carrying amounts for financial liabilities have not changed between the closing 30 June 2018 and opening 1 July 2018 dates due to the transition to PBE IFRS 9.

## Financial statements glossary

The following table provides definitions for some terms used in our financial statements. Please note that these definitions are only provided as a help to readers, and are not part of the financial statements, or necessarily reflect the way that we interpret and apply accounting standards.

<b>Accounts payable</b>	Debts owed to somebody (eg, a company) for goods or services provided to us which we have not yet paid at balance date.
<b>Accounts receivable</b>	Debts owed to us by somebody (eg, a company) for a service we have provided, where we have not been paid at balance date.
<b>Amortisation</b>	Amortisation is basically the same as depreciation (see below), except it is applied to intangible assets (eg, software).
<b>Asset</b>	An asset is something which we own, expect to receive in the future, or control.
<b>Balance date</b>	The date at which a set of accounts are prepared. For the Commission, that date is 30 June of each year.
<b>Cash equivalents</b>	Cash equivalents are assets like term deposits which share most of the characteristics of cash. They are cash equivalent because we can quickly turn them into cash, but they are technically not cash in a bank account or in the hand.
<b>Comprehensive revenue and expense</b>	Comprehensive revenue and expense is a broader concept of revenue which includes a surplus (or loss) from an entity's operations, and movements in parts of equity that aren't the result of surpluses or owner transactions. An example is a revaluation gain on the value of assets, which increases equity by increasing the value of an asset revaluation reserve.
<b>Current asset (or liability)</b>	A current asset is an asset which can be converted into cash or used to pay a liability within 12 months. A current liability is a liability which we expect to repay within 12 months.
<b>Depreciation</b>	Depreciation is the charge of an asset's cost over a certain time period. Depreciation recognises that assets decline in their value and usefulness over time.
<b>Equity</b>	Equity represents the value of an entity to its owners, and is the amount left over after deducting all liabilities from all assets. It is also known as net assets.
<b>Financial instruments</b>	Financial instruments are assets or liabilities which are tradable in some way, such as cash, shares, or loans. Other financial instruments include 'derivatives', which are traded securities that get their value from an underlying asset (like a future oil shipment or a future foreign currency purchase).
<b>Generally accepted accounting practice (GAAP)</b>	GAAP is shorthand for the series of standards, interpretations, and concepts which are followed by accountants. NZ GAAP is defined by law to include standards issued by the External Reporting Board, and where that (or a specific law) does not cover a matter, accounting policies considered authoritative by the accounting profession in New Zealand.

<b>Going concern</b>	An assumption made by an entity that it will continue to operate into the foreseeable future. If this is incorrect, then the entity has to prepare its accounts as if it is being wound up.
<b>Intangible assets</b>	Intangible assets are assets which do not have a physical substance, and are not cash.
<b>Liability</b>	A liability is something we owe, expect to pay in the future, or may have to pay in the future.
<b>Monetary assets</b>	Monetary assets are assets which are cash, or will become cash, in a short timeframe (eg, bank account balances, term deposits, accounts receivable).
<b>Monetary liabilities</b>	Monetary liabilities are debts owed to another party, such as accounts payable, loans or unpaid salaries.
<b>Non-current asset (or liability)</b>	A non-current asset is an asset which we cannot ordinarily turn into cash within 12 months. A non-current liability is a liability which we would not ordinarily have to repay within 12 months.
<b>Output class</b>	An output class is a grouping of similar outputs or activities with similar objectives. The Commission's output classes are primarily funded by appropriations from the Crown via MBIE.
<b>Provision</b>	An estimate of an amount that an entity may (or will) have to pay as a result of an obligation the entity has to another party.
<b>Public benefit entity</b>	An entity which aims to provide goods or services to the general public to meet a specific need, rather than to make a profit for its owners.
<b>Related party</b>	Another person or entity which is related to us because of, for example, a common owner or person in a position of authority (eg, director, senior management).
<b>Statement of cash flows</b>	A statement which shows how much cash we have received from various sources (investments, operating activities, cash injections received from the Crown) and cash payments we have made (expenses, salaries, repayment of money to the Crown).
<b>Statement of comprehensive revenue and expense</b>	A statement which shows our surplus or deficit from our operating activities, plus or less any movements in non-owner equity items (see comprehensive revenue and expense above).
<b>Statement of financial position</b>	A statement which shows what assets we own or control, what liabilities we have, and the remainder (equity) at the balance date.

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